

# THE CROATIAN PARLIAMENT

3125

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

## DECISION

### PROMULGATING THE MISDEMEANOUR ACT

I hereby promulgate the Misdemeanour Act passed by the Croatian Parliament at its session on 3 October 2007.

Class: 011-01/07-01/127  
Reg. No.: 71-05-03/1-07-2  
Zagreb, 10 October 2007

President of  
the Republic of Croatia  
**Stjepan Mesic**

## MISDEMEANOUR ACT

### PART ONE SUBSTANTIVE PROVISIONS

#### First Title (I) BASIC PROVISIONS

##### *Definition of misdemeanour*

##### Article 1

A misdemeanour violates the public order, social discipline or other social values not protected under the Criminal Act and other statutes laying down criminal offences.

##### *Principle of legality*

##### Article 2

- (1) Misdemeanours and misdemeanour sanctions may be laid down by statute and decisions of units of local and regional self-government.
- (2) Units of local and regional self-government may lay down misdemeanours and misdemeanour sanctions only for violations of such regulations as under the Constitution and the law they have the competence to adopt, which competence they cannot transfer to anyone else.
- (3) No one shall be punished nor shall any other misdemeanour sanction be imposed upon them for an act that prior to its commission was not defined by statute or international law or

a decision of a unit of local or regional self-government as a misdemeanour and for which the type and measure of misdemeanour sanction that may be imposed upon or applied to the perpetrator was not prescribed by statute or decision of a unit of local or regional self-government.

#### *Mandatory application of the more lenient law*

##### Article 3

- (1) The law in force at the time of commission of a misdemeanour shall be applicable to the perpetrator of a misdemeanour.
- (2) If after the commission of a misdemeanour the relevant law is amended once or a number of times, the law that is more lenient to the perpetrator shall apply.

#### *Principle of guilt*

##### Article 4

No one shall be punished nor shall any other misdemeanour sanction be imposed upon them if they are not guilty of the committed misdemeanour.

#### *Types of misdemeanour sanctions*

##### Article 5

- (1) The following are misdemeanour sanctions that may be prescribed by a particular misdemeanour law and be imposed upon or applied to a perpetrator of this misdemeanour:
  1. penalty (pecuniary and imprisonment);
  2. protective measure, in accordance with Article 50, paragraph 2, of this Act.
- (2) This Act provides for the following misdemeanour sanctions:
  1. cautionary measures (admonition and suspended sentence);
  2. protective measures (Article 50, paragraph 1);
  3. educational measures.
- (3) A fine is a misdemeanour sanction that may be prescribed by a decision of a unit of local or regional self-government laying down a misdemeanour and imposed upon a perpetrator of this misdemeanour.
- (4) Unless this Act provides otherwise, the amount or duration of each misdemeanour sanction shall be provided by regulation and no misdemeanour sanction may be prescribed, or imposed, or applied in an indefinite amount or for an indefinite period of time.

#### *General intendment of misdemeanour sanctions*

##### Article 6

The general intendment of prescribing and imposing or applying all the misdemeanour sanctions is that all citizens respect the legal system and no one commits any misdemeanours, and that whoever has committed a misdemeanour conducts themselves in this way in the future.

## *Limitations in prescribing and applying misdemeanour sanctions*

### Article 7

By determining the content of misdemeanour sanctions and the manner of their application, a perpetrator of a misdemeanour may have their freedoms and rights limited only to the extent that corresponds to the type of misdemeanour sanction and its intendment as established by law, without being caused physical or mental suffering, or subjected to inhuman or degrading treatment, and respecting human dignity and personality.

### *Right to Rehabilitation*

### Article 8

A perpetrator of a misdemeanour found guilty by a final judgment and imposed a misdemeanour sanction or granted a discharge has the right, after a certain period of time and under the conditions set forth in this Act, to consider that they did not commit the misdemeanour and their rights and freedoms cannot differ from the rights and freedoms of those who did not commit a misdemeanour.

### Second Title (II)

## APPLICATION OF MISDEMEANOUR LAW OF THE REPUBLIC OF CROATIA

### *No misdemeanour liability of children*

### Article 9

- (1) A person who at the time of commission of a misdemeanour is under the age of fourteen years shall not be liable for the misdemeanour.
- (2) Where the person referred to in paragraph 1 of this Act frequently conducts themselves in a way that realises the elements of serious misdemeanours, the state body having competence to take action following the commission of a misdemeanour shall inform of this person's conduct their parents or guardian and the Welfare Centre of their domicile or the residence of their parents or guardian.
- (3) For the misdemeanour committed by the person referred to in paragraph 1 of this Article this person's parent or another person supervising them shall be punished provided the misdemeanour is directly related to the failure of this person's parent or another person supervising them to supervise.

### *Impossibility to apply misdemeanour law in special cases*

### Article 10

Against a perpetrator of a misdemeanour already found guilty by a final judgment in a criminal case for a criminal offence that also encompasses the elements of the committed misdemeanour it shall not be possible to institute a misdemeanour proceeding for the said misdemeanour and if such proceeding is instituted or pending, it cannot resume and be completed.

*Application of the substantive provisions of the Misdemeanour Act*

Article 11

- (1) The substantive provisions of this Act shall apply to all misdemeanours laid down by statute and other regulations laying down misdemeanours.
- (2) Unless the law provides otherwise, misdemeanour regulations applicable to natural persons shall also apply to responsible persons in legal entities, craftspersons and other sole traders.

*Application of misdemeanour law of the Republic of Croatia to misdemeanours committed in the territory of the Republic of Croatia, on board its vessels or aircraft*

Article 12

- (1) The misdemeanour law of the Republic of Croatia shall apply to whoever commits a misdemeanour in its territory.
- (2) A misdemeanour shall be committed in the territory of the Republic of Croatia if a perpetrator acts, or has a duty to act, in its territory, or if the consequence occurs in its territory.
- (3) A misdemeanour proceeding for a misdemeanour laid down by a decision of a unit of local or regional self-government shall be conducted only where such misdemeanour was committed in the territory of this unit of local or regional self-government.
- (4) Misdemeanour regulations applicable to the entire territory of the Republic of Croatia shall also apply to whoever commits a misdemeanour on a national vessel or aircraft outside its territory.

*Statute of limitations for misdemeanour prosecution, running and interruption of the limitation period*

Article 13

- (1) Misdemeanour prosecution cannot be instituted upon expiration of two years from the commission of the misdemeanour.
- (2) A special statute may provide for a longer period of time for the institution of misdemeanour proceedings for misdemeanours laid down therein, which period of time shall not, however, exceed three years.
- (3) The period of limitation shall not run for as long as the law does not provide for the institution or resumption of misdemeanour prosecution.
- (4) The period of limitation shall be interrupted by each procedural act of the competent body performed for the purpose of prosecuting a perpetrator for the misdemeanour committed.
- (5) After each interruption the period of limitation shall resume running.
- (6) The statute of limitation for misdemeanour prosecution shall in any case expire after a period equal to twice the limitation period for misdemeanour prosecution set by law expires.
- (7) Legislation on the limitation period, its running and interruption shall also apply to disciplinary penalties imposed by the court in the course of proceedings.

*Statute of limitations for the enforcement of misdemeanour sanctions, running and interruption of the limitation period*

## Article 14

- (1) Enforcement of an imposed misdemeanour sanction cannot start due to the statute of limitations having run upon expiry of two years from the date the misdemeanour decision imposing the sanction becomes final.
- (2) The statute of limitation for enforcing a penalty and imposing other misdemeanour sanctions shall start to run from the day the decision imposing the penalty or other misdemeanour sanctions becomes final. In the case of a revoked suspended sentence, the period of limitation shall start to run from the day the decision revoking the suspension becomes final.
- (3) The statute of limitation for enforcement shall not run for the period of time during which the enforcement of a penalty or imposition of some other misdemeanour sanction cannot start or resume under law.
- (4) The statute of limitation for enforcement shall be interrupted by each act of the competent body performed for the purpose of enforcing a penalty or imposing some other misdemeanour sanction.
- (5) After each interruption the limitation period shall resume running.
- (6) The period of limitation for enforcing a penalty and applying some other misdemeanour sanction shall in any case expire upon expiry of three years from the day the decision imposing the penalty or some other misdemeanour sanction becomes final.
- (7) The provisions on the statute of limitations for the enforcement of misdemeanour sanctions shall also apply to the statute of limitations for the enforcement of disciplinary penalties imposed by the court in the course of proceedings.

## Third Title (III) MISDEMEANOUR

### *Manner of commission of a misdemeanour*

## Article 15

- (1) A misdemeanour may be committed by acting or omitting to act.
- (2) A misdemeanour shall be committed by omission to act if a perpetrator that is legally obligated to prevent the occurrence of the consequence of the misdemeanour set forth in a regulation omits to do so, such omission being both with respect to its effects and its character equivalent to the commission of this act by acting.
- (3) A perpetrator who commits a misdemeanour by omitting to act may be punished more leniently, unless the misdemeanour in question is a misdemeanour that may be committed only by omitting to act.

### *Time of commission of a misdemeanour*

## Article 16

A misdemeanour shall be committed at the time when the perpetrator acts, or has a duty to act, irrespective of when the consequence of the misdemeanour occurs.

### *Place of commission of a misdemeanour*

#### Article 17

A misdemeanour shall be committed at the place where the perpetrator acts, or where they have a duty to act, and where the consequence of the misdemeanour occurs in full or in part or, in the case of a punishable attempt, where the consequence should have occurred.

### *Self-Defence*

#### Article 18

- (1) There shall be no misdemeanour if the perpetrator acts in self-defence.
- (2) Self-defence shall mean such defence as is absolutely necessary for the perpetrator to avert from themselves or another a coinciding or imminent unlawful attack.
- (3) A perpetrator who exceeds the limits of self-defence may be punished less severely.

### *Necessity*

#### Article 19

- (1) There shall be no misdemeanour where the perpetrator has realised the prescribed elements of a misdemeanour for the purpose of averting from themselves or another a coinciding or imminent danger not brought on by their own fault, which could not have been averted in any other way, the harm resulting therefrom being lesser than the harm threatening to happen.
- (2) A perpetrator shall be granted a discharge for a committed misdemeanour if they acted in order to avert from themselves or another a coinciding or imminent danger not brought on by their own fault, which could not have been averted in any other way, the harm resulting therefrom being equal to the harm threatening to happen.

### *Force or threat*

#### Article 20

- (1) There shall be no misdemeanour if the perpetrator acted under the influence of an irresistible force.
- (2) If a perpetrator committed a misdemeanour under the influence of a force that was resistible or under threat, the provision of Article 19, paragraph 2, of this Act shall apply, taking this force or threat to be danger not brought on by one's own fault.

### *Attempt*

#### Article 21

Unless a misdemeanour regulation provides otherwise, an attempted misdemeanour shall not be punishable.

## *Individual perpetrator of a misdemeanour and participants*

### Article 22

- (1) A perpetrator of a misdemeanour is the person who by committing or omitting an act or by acting through the intermediary of another commits a misdemeanour.
- (2) Participants in the commission of a misdemeanour are the inciter and aider.
- (3) Accomplices to a misdemeanour are two or more persons (perpetrators) who on the basis of a joint decision commit a misdemeanour with each of them participating in or otherwise substantially contributing to its commission.
- (4) Inciter and aider are participants who do not manage the commission of a misdemeanour but who by inciting or aiding contribute to its commission.

## *Liability and punishment of participants*

### Article 23

- (1) Each participant shall be liable within the limits of their intent or negligence. The inciter and aider shall be liable within the limits of their intent.
- (2) The perpetrator's actual or personal circumstances constituting the elements of a misdemeanour or affecting the severity of the prescribed sanction, its application, and determination shall be taken into account also with respect to the participants, while any strictly personal circumstances on account of which a regulation excludes guilt or provides for penalty mitigation may be taken into account only insofar as they are present with respect to the perpetrator or participant in a misdemeanour.

## *Inciting and aiding*

### Article 24

- (1) Whoever intentionally incites or aids another to commit a misdemeanour shall be punished as if they themselves committed the misdemeanour, and in the case of aiding may be punished less severely.
- (2) There shall be no misdemeanour liability of the inciter and aider if the misdemeanour remains an attempt for which no misdemeanour liability is prescribed.
- (3) Aiding the commission of a misdemeanour shall in particular mean: giving advice or instructions on how to commit a misdemeanour, providing the perpetrator with the instrumentalities of misdemeanour, and concealing, in fulfilment of a promise given beforehand, a misdemeanour, the perpetrator, instrumentalities of misdemeanour, traces of a misdemeanour, or items acquired as a result of a misdemeanour.

## Fourth Title (IV)

### GUILT

## *Elements of guilt*

### Article 25

- (1) Guilty of a misdemeanour shall be a perpetrator who at the time of commission of a misdemeanour was sane and acted negligently, while being aware or being required and able



to be aware that the act is prohibited, or with intent, where a misdemeanour regulation prescribes misdemeanour liability for this form of guilt.

(2) By way of exception, a misdemeanour regulation may prescribe liability only for intent.

### *Insanity and significantly diminished sanity*

#### Article 26

(1) An insane person shall not be guilty and shall neither be imposed a misdemeanour sanction nor shall such sanction be applied to them.

(2) A person shall be deemed insane who at the time of realisation of the prescribed elements of a misdemeanour is unable to comprehend the meaning of their actions or control their will due to a mental illness, a temporary mental disorder, insufficient mental development, or another serious mental health condition.

(3) Unless significantly diminished sanity is self-induced, a perpetrator may be punished less severely if their sanity at the time of commission of a misdemeanour is significantly diminished as a result of any of the conditions referred to in paragraph 2 of this Article.

### *Self-induced insanity*

#### Article 27

A perpetrator of a misdemeanour shall not be deemed insane if they themselves are guilty of bringing themselves, through the use of alcohol, drugs or other substances, into a state in which they could not comprehend the meaning of their actions or control their will and if, at the time they were bringing themselves into such a state, they were negligent with respect to the misdemeanour they committed or had the intent to commit the misdemeanour, where the relevant misdemeanour regulation prescribes punishment for such form of guilt.

### *Negligence and intent*

#### Article 28

(1) A misdemeanour can be committed by reckless conduct or by unconscious negligence.

(2) A perpetrator shall act recklessly when they are aware that they can commit a misdemeanour but foolishly believe that this will not happen or that they will be able to prevent it.

(3) A perpetrator shall act by unconscious negligence when they are not aware that they can commit a misdemeanour although on the basis of their personal characteristics and circumstances they ought to have been and could have been aware of this possibility.

(4) A misdemeanour can be committed with direct or indirect intent.

(5) A perpetrator shall act with direct intent when they are aware of their misdemeanour and want its commission.

(6) A perpetrator shall act with indirect intent when they are aware that they might commit a misdemeanour and agree to this.

### *Mistake as to unlawfulness of a misdemeanour*

#### Article 29



(1) A perpetrator who for justifiable reasons did not know or could not have known that an act is prohibited shall not be guilty.

(2) If the mistake was avoidable, the perpetrator may be punished for the committed misdemeanour less severely.

(3) The mistake shall be avoidable if anyone, including the perpetrator, can easily realise that an act is unlawful or if, in view of their profession, occupation or job, the perpetrator in question ought to have become familiar with the relevant regulation.

*Mistake as to the statutory definition of a misdemeanour and mistake as to the circumstances excluding unlawfulness*

#### Article 30

(1) A perpetrator who at the time of commission of a misdemeanour is unaware of an element of the misdemeanour set down by statute or another regulation, shall not be guilty.

(2) If a perpetrator is mistaken about the prescribed elements of a misdemeanour by reason of negligence, they shall be guilty of the misdemeanour.

(3) There shall be no misdemeanour despite the perpetrator realising with intent the prescribed elements of the misdemeanour in question if at the time of commission of the act, the perpetrator mistakenly believes that such circumstances exist as would allow, if they actually existed, the commission of the act.

(4) If a perpetrator is mistaken about the circumstances excluding unlawfulness by reason of negligence, they shall be punished for the commission of a misdemeanour.

#### Fifth Title (V)

### PENALTIES AND PUNISHMENT

#### *Types of penalties*

#### Article 31

(1) For a misdemeanour laid down by statute a perpetrator may be punished by: a fine or imprisonment.

(2) For a misdemeanour laid down by a decision of a unit of local or regional self-government a perpetrator may be punished by a fine.

(3) Imprisonment may be prescribed by statute only as the more severe penalty accompanying the prescribed fine.

#### *Purpose of punishment*

#### Article 32

Acknowledging the general purpose of misdemeanour sanctions, the purpose of punishment is to express social reproof for the committed misdemeanour, deter the perpetrator and all others from committing misdemeanours in the future, and by applying the prescribed penalties raise citizens' awareness of the violation of the public order and social discipline, and the undermining of other social values as well as of the fairness of punishing its perpetrators.

## *Fine*

### Article 33

- (1) For a misdemeanour laid down by statute, a legal entity-perpetrator of a misdemeanour cannot be prescribed or imposed a fine in an amount smaller than HRK 2,000.00 or greater than HRK 1,000,000.00.
- (2) For a misdemeanour laid down by statute, a natural person craftsperson or another type of sole trader-perpetrator of a misdemeanour in relation to their craft business or sole trade cannot be prescribed or imposed a fine in an amount smaller than HRK 1,000.00 or greater than HRK 500,000.00.
- (3) For a misdemeanour laid down by statute, a natural person-perpetrator of a misdemeanour cannot be prescribed or imposed a fine in an amount smaller than HRK 100.00 or greater than HRK 50,000.00.
- (4) For a misdemeanour laid down by a decision of a unit of local or regional self-government, a legal entity-perpetrator of a misdemeanour cannot be prescribed or imposed a fine in an amount smaller than HRK 500.00 or greater than HRK 10,000.00.
- (5) For a misdemeanour laid down by a decision of a unit of local or regional self-government, a natural person craftsperson or another type of sole trader-perpetrator of a misdemeanour in relation to their craft business or sole trade cannot be prescribed or imposed a fine in an amount smaller than HRK 300.00 or greater than HRK 5,000.00.
- (6) For a misdemeanour laid down by a decision of a unit of local or regional self-government, a natural person-perpetrator of a misdemeanour cannot be prescribed or imposed a fine in an amount smaller than HRK 100.00 or greater than HRK 2,000.00.
- (7) For the most serious misdemeanours laid down by statute in the area of natural resource and environmental protection and preservation, or relating to occupational health and safety, work and recruitment in the informal sector, social security, tax, customs and finances, telecommunications (electronic communications), market competition, state commodity reserves, biodiversity, and introduction into the environment and marketing of genetically modified organisms or products derived therefrom and, in the field of construction, nonfulfillment of essential requirements for construction work, a fine of no more than double the general maximum amount laid down in paragraphs 1 to 3 of this Article may be prescribed and imposed on a defendant-natural person. For a misdemeanour committed in the area of natural resource and environmental protection and preservation, a fine of up to HRK 1,000,000.00 may by way of exception be prescribed and imposed on a defendant-natural person.
- (8) For a misdemeanour committed out of love of gain as a result of which a pecuniary advantage has been obtained, the perpetrator may be punished more severely but no more than double the prescribed penalty for this misdemeanour.
- (9) In the case of the most serious misdemeanours referred to in paragraph 7 of this Article, a misdemeanour regulation may prescribe and impose a fine expressed as a percentage of between 1% and 10% of the violated protected value, indicating also the special minimum and maximum percentages of the fine. In such case the maximum fine limits referred to in paragraphs 1 to 8 of this Article shall apply neither at the time of determining the penalty nor at the time of imposing the total fine.
- (10) The deadline for the payment of the fine shall be set by the court in the judgement itself. In setting the deadline the court shall take into account the amount of the fine. The said deadline may be no sooner than eight days and no later than three months, and in justifiable cases (depending on the amount of the fine and the defendant's financial condition) the court may decide on the payment of the fine in instalments over a period of no more than six

months, unless the misdemeanour regulation lays down a longer period of time. In the case of a defendant referred to in Article 136, paragraph 1, of this Article, the deadline for the payment of the imposed fine may be set immediately.

(11) The general minimum fine limits prescribed by this Article shall also apply to determining fines for misdemeanours in concurrence.

#### *Enforced collection and fine substitution*

##### Article 34

(1) If a fine is not paid in full or in part within the deadline set in the decision imposing the fine, it shall be enforced in accordance with the provisions of this Act.

(2) If a fine fails to be enforced in full or in part within a year from when the competent enforcement authority receives the request for its enforcement, the court having jurisdiction shall, save in the case of legal entities and juveniles, substitute it by imprisonment counting each initiated three hundred kuna of the fine for one day of imprisonment, in which case it shall not be possible to impose imprisonment for less than three days or more than sixty days. No collection of outstanding fines shall be enforced against the defendant referred to in Article 136, paragraph 1, of this Act. In such case the court that made the final misdemeanour decision shall immediately substitute imprisonment for the outstanding fine in the manner provided for by this Act.

(3) If it deems this justified by the severity of the misdemeanour and the amount of the outstanding fine, the court may, under the rule from paragraph 2 of this Article, instead of imprisonment impose community service. The provisions of this Act on community service shall not apply to defendants referred to in Article 136, paragraph 1, of this Act.

(4) If the decision imposing the fine was taken by a state administration body, the court having jurisdiction shall, at the request of this body, decide pursuant to paragraph 2 or 3 of this Article.

(5) If, following the decision referred to in paragraphs 2 to 3 of this Article, the convicted person pays the fine in full, the decision shall be abrogated and further enforcement proceedings terminated, and if they pay the fine in part, the decision shall be amended in such a way that imprisonment or community service be substituted for the continuously outstanding amount of the fine by applying the rule thereon referred to in paragraphs 2 and 3 of this Article.

#### *Imprisonment*

##### Article 35

(1) Imprisonment may be prescribed and imposed for a period no shorter than three days and no longer than thirty days, and for the most serious types of misdemeanours, even up to sixty days.

(2) For misdemeanours involving domestic violence, other violence-related misdemeanours, serious environmental misdemeanours, and serious drug abuse-related misdemeanours imprisonment of up to ninety days may be prescribed by statute.

(3) Only the court may impose imprisonment on the perpetrator of a misdemeanour.

(4) Term of imprisonment shall be expressed in full days.

## *General rule on the choice of type and measure of punishment*

### *Article 36*

(1) The choice of type and measure of punishment shall be made by the court within the limits set in the relevant misdemeanour regulation and according to the degree of guilt, danger which the act in question constitutes and purpose of punishment.

(2) In deciding on the type and measure of punishment, the court shall take into account all the circumstances affecting the severity of punishment of a perpetrator of a misdemeanour in terms of the type and measure of punishment (mitigating and aggravating circumstances), and in particular the following: degree of guilt, motives for which the misdemeanour was committed, perpetrator's prior conduct, their conduct after the commission of the misdemeanour, and the totality of social and personal causes that contributed to the commission of the misdemeanour. When imposing a fine on a perpetrator of a misdemeanour, the court shall also take into account their financial condition.

### *Mitigation of penalty*

### *Article 37*

The penalty laid down for a particular misdemeanour may be mitigated when this Act expressly provides therefor or when the court holds that in view of the existence of especially apparent mitigating circumstances the purpose of punishment can also be achieved by a penalty less severe than the one prescribed, in which case the court may:

1. in lieu of a penalty in the prescribed amount or of the prescribed duration impose a penalty below the prescribed special minimum penalty, but not below the general statutory minimum for this type of penalty set for the corresponding type of defendant (Article 33, paragraphs 1 through 6).
2. if for a particular misdemeanour the law lays down a fine or imprisonment as a more severe punishment, the court may, in the manner specified in point 1 of this Article, mitigate either of these penalties that it imposes;
3. if for a particular misdemeanour a special fine minimum greater than the general fine minimum is laid down, the fine may, in the manner specified in point 1 of this Article, be mitigated to no more than one third of the prescribed special fine minimum, but not below the corresponding general fine minimum;
4. for misdemeanours committed out of love of gain, the fine may be mitigated to one half of the prescribed fine minimum, but not below the general fine minimum.

### *Discharge*

### *Article 38*

(1) A perpetrator of a misdemeanour shall be granted a discharge by the court if the law expressly provides therefor.

(2) A perpetrator of a misdemeanour may be granted a discharge by the court if the law provides for this possibility.

(3) If the law provides for the possibility of discharge, the court may, instead of discharging a perpetrator of a misdemeanour, punish them less severely as specified in Article 37 of this Act.

(4) Likewise, the court may discharge a perpetrator of a misdemeanour who, after committing

a misdemeanour, fully compensates for the damage caused by the misdemeanour or pays the prescribed charges due to the non-payment of which the misdemeanour proceeding has been instituted.

### *Concurrence of misdemeanours and continuing misdemeanour*

#### Article 39

(1) If by one or more acts a perpetrator of a misdemeanour commits a number of misdemeanours for which they are tried concurrently and the court decides to punish them, the court shall decide in accordance with the law on the penalties for each of the committed misdemeanours and then for all these misdemeanours impose the aggregate penalty. In doing so, the court shall comply with the following rules:

1. if for each of the misdemeanours it imposed a term of imprisonment, it will impose an aggregate term of imprisonment equal to the sum of individually imposed terms of imprisonment, provided such aggregate term of imprisonment does not exceed one hundred and twenty days;
2. if for each of the misdemeanours it imposed a fine, it shall impose an aggregate fine equal to the sum of individually imposed fines, provided such aggregate fine does not exceed the double the general maximum fines laid down by the provision of Article 33, paragraphs 1 to 8, of this Act (except in the case referred to in Article 33, paragraph 9);
3. if for some misdemeanours it imposed individual terms of imprisonment and for others fines, it shall impose an aggregate term of imprisonment and an aggregate fine in accordance with the rules laid down in items 1 and 2 of this paragraph;
4. in the case referred to in point 3 of this paragraph, if a term of imprisonment is substituted for the aggregate fine, the sum of this term of imprisonment and the aggregate imposed term of imprisonment shall not exceed one hundred and twenty days;

(2) The provisions on the concurrence of misdemeanours shall not apply to continuing misdemeanours.

(3) A continuing misdemeanour shall be committed when a perpetrator commits a number of misdemeanours that are the same or of the same kind, which in view of the manner of their commission, their temporal linkage and other actual circumstances linking them constitute a unified whole.

### *Crediting detention time*

#### Article 40

(1) Time spent in detention as well as any deprivation of liberty relating to a misdemeanour shall be credited towards the imposed term of imprisonment, juvenile imprisonment or fine.

(2) If during a criminal proceeding a defendant is detained or kept in custody and the criminal proceeding is thereafter terminated, or a judgment of refusal or acquittal passed, the period of time during which they have been deprived of liberty shall be credited towards the penalty imposed for the same act in a misdemeanour proceeding.

(3) Crediting under the provisions of this Article shall equate:

1. any time spent under police arrest with one day of imprisonment, juvenile imprisonment or a HRK 300.00 fine;
2. each started day of detention or custody with one day of imprisonment, juvenile imprisonment or a HRK 300.00 fine.

Sixth Title (VI)  
CAUTIONARY MEASURES

*Types of cautionary measures*

Article 41

Cautionary measures prescribed by this Act shall include admonition and suspended sentence.

*Purpose of cautionary measures*

Article 42

(1) The purpose of admonition is to administer to a perpetrator such type of reproof where, in view of all the circumstances relating to the misdemeanour in question and the perpetrator, it is not necessary, in order to achieve the purpose of misdemeanour sanctions, to impose punishment.

(2) The purpose of suspended sentence is to administer to a perpetrator of a misdemeanour such type of reproof as enables the achievement of the purpose of misdemeanour sanctions by handing down a sentence but not enforcing it.

*Admonition*

Article 43

(1) An admonition is a misdemeanour sanction that can be imposed as a cautionary measure on a perpetrator of a misdemeanour for which a fine of up to HRK 5,000.00 is laid down as the sole penalty if from the perpetrator's conduct, guilt, and the resulting consequence it is evident that the misdemeanour in question is a less serious form of this type of misdemeanour and when, in view of all the circumstances relating to the perpetrator or, in particular, their attitude toward the injured party and compensation of damage caused by the misdemeanour, the conditions for achieving the purpose of the cautionary measure without meting out punishment are met.

(2) An admonition may also be administered in respect of misdemeanours committed in concurrence if for each of these misdemeanours the conditions referred to in paragraph 1 of this Article are met.

*Suspended sentence*

Article 44

(1) A suspended sentence is a misdemeanour sanction which, as a cautionary measure, consists of an imposed prison sentence or juvenile prison sentence and a time period during which this sentence is not enforced under the conditions set forth in this Act.

(2) The court may impose a suspended sentence when it deems that the purpose of punishment can be expected to be achieved even without enforcing the sentence, in particular having in mind the perpetrator's attitude towards the misdemeanour in question or the injured party and the compensation of damage caused by the misdemeanour.

(3) A suspended sentence shall defer enforcement of the imposed sentence by no less than three months and no more than one year.



### *Duties of the person imposed a suspended sentence*

#### Article 45

(1) In addition to imposing a suspended sentence, the court may impose on a perpetrator of a misdemeanour one or more of the following duties:

1. to compensate for the damage they caused;
2. to return the benefit obtained from the misdemeanour; or
3. to fulfil other duties provided for by law that are appropriate to the nature of the misdemeanour.

(2) The time limit for the fulfilment of a duty referred to in paragraph 1 of this Article shall be set by the court within the imposed probation period.

### *Revocation of suspended sentence*

#### Article 46

(1) The court may revoke a suspended sentence and impose enforcement of the pronounced sentence if during probation the convicted person commits one or more misdemeanours carrying the same or a more serious penalty than the suspended sentence.

(2) When, in the cases referred to in paragraph 1 of this Article, it revokes a suspended sentence and imposes enforcement of the pronounced penalty, the court shall, with respect to the penalties imposed, proceed in accordance with the provisions of this Act relating to penalty assessment for misdemeanours in concurrence.

(3) When the court does not revoke a suspended sentence, it may impose a sentence or a suspended sentence for another misdemeanour. If it imposes a suspended sentence, the provisions of this Act relating to penalty assessment for misdemeanours in concurrence shall apply to the previously and the newly imposed sentence, with a new time period during which the total imposed sentence is not to be enforced being fixed.

(4) The court shall revoke a suspended sentence and impose enforcement of the pronounced sentence if during probation the convicted person fails to fulfil, despite being able to do so, the duties imposed on them. Where the impossibility of fulfilling these duties is established, the court may substitute other duties therefor or release the convicted person therefrom.

(5) Irrespective of the reasons for the revocation, a suspended sentence cannot be revoked upon expiry of one year from the end of the probation period.

### *Suspended sentence with protective supervision*

#### Article 47

(1) Where the conditions for the imposition of a suspended sentence exist but where, in view of the circumstances in which a perpetrator of a misdemeanour lives and their personality, the court assesses that they need assistance, protection, and supervision in order not to commit another misdemeanour during the probation period, it can impose a suspended sentence with protective supervision.

(2) Protective supervision shall be exercised by professionals of the state body responsible for enforcing criminal sanctions.

(3) Protective supervision may last for the entire duration of probation or may be abolished sooner by court decision, where there is no more need for assistance, protection, and supervision.



### *Special obligations accompanying protective supervision*

#### Article 48

While enforcing a suspended sentence with protective supervision, the court may, in addition to the duties referred to in Article 45, paragraph 1, of this Act, impose on a perpetrator of a misdemeanour one or more of the following duties during probation:

1. undergoing treatment necessary for curing a physical or mental disorder that might trigger the commission of another misdemeanour;
2. undergoing alcohol and drug addiction treatment in a health institution or therapeutic community;
3. taking part in psychosocial therapy in a specialised institution within the responsible state bodies for the purpose of treating violent behaviour;
4. not to visit particular places, venues, and events that might provide an opportunity or impetus for the commission of another misdemeanour.

### *Revocation of suspended sentence with protective supervision*

#### Article 49

To the revocation of a suspended sentence with protective supervision the provisions of this Act relating to the revocation of a suspended sentence shall apply in full. As regards special obligations accompanying protective supervision, they shall be treated in the same manner as other obligations accompanying a suspended sentence (Article 46, paragraph 4, of this Act).

### Seventh Title (VII) PROTECTIVE MEASURES

#### *Types of protective measures*

#### Article 50

(1) Protective measures laid down by this Act, one or more of which the court may impose on a perpetrator of a misdemeanour, include:

1. mandatory psychiatric treatment;
2. mandatory addiction treatment;
3. prohibition against a natural person of pursuing an occupation, engaging in particular activities, performing particular tasks, or holding an office;
4. prohibition against a legal entity of engaging in particular activities or performing particular tasks;
5. deportation of an alien from the country;
6. seizure of an item;
7. prohibition to drive a motor vehicle.

(2) In addition to the protective measures laid down in this Act (paragraph 1 of this Article), other types of protective measures may be laid down by statute, the duration and purpose of which must be in conformance with the provisions of this Act. These protective measures shall be applied under the same conditions as the ones laid down for the application of protective measures referred to in paragraph 1 of this Article.

(3) The protective measures prescribed by this Act and special statutes may, unless this Act provides otherwise, be imposed and applied for a period not shorter than one month and not

longer than two years. The protective measure of seizure of an item shall be applied permanently.

(4) Protective measures applicable to natural persons shall likewise apply to responsible persons within legal entities, craftspersons and other sole traders.

#### *Purpose of protective measures*

##### Article 51

The purpose of protective measures is to eliminate, through their application, such conditions as enable or provide an impetus for the commission of another misdemeanour.

#### *Mandatory psychiatric treatment*

##### Article 52

(1) The protective measure of mandatory psychiatric treatment may be imposed only on such perpetrators as committed a misdemeanour in a state of substantially diminished mental capacity if there is a risk that the reasons for their being in such a state might also in the future provide an impetus for the commission of another misdemeanour.

(2) The protective measure of mandatory psychiatric treatment may, under the conditions referred to in paragraph 1 of this Article, be imposed during imprisonment, juvenile imprisonment, or together with a substitute for imprisonment, or juvenile imprisonment, or together with a suspended sentence.

(3) Mandatory psychiatric treatment shall last until the reasons for which it was imposed cease to exist and in any case until the end of the prison term, or juvenile prison term, the probation period in application of a suspended sentence. In all these cases, however, it shall last no more than one year.

(4) To a perpetrator of a misdemeanour who refuses psychiatric treatment at liberty which accompanies a suspended sentence, or a substitute for imprisonment or juvenile imprisonment the provision of Article 46, paragraph 4, of this Act may apply.

#### *Mandatory addiction treatment*

##### Article 53

(1) The protective measure of mandatory addiction treatment may be imposed on a perpetrator of a misdemeanour who committed a misdemeanour under the decisive influence of alcohol or drug addiction if there is a risk that as a result of such addiction they might recommit some misdemeanour.

(2) The protective measure of mandatory addiction treatment may, under the conditions referred to in paragraph 1 of this Article, be imposed together with the same misdemeanour sanctions, for the same duration and in the same manner as specified in this Act with regard to the protective measure of mandatory psychiatric treatment.

(3) To a perpetrator of a misdemeanour who refuses mandatory addiction treatment accompanying a suspended sentence, or a substitute for imprisonment or juvenile imprisonment the provision of Article 46, paragraph 4, of this Act may apply.

*Prohibition against a natural person of pursuing an occupation, engaging in particular activities, performing particular tasks, or holding an office*

## Article 54

(1) The protective measure of prohibition against a natural person of pursuing an occupation, engaging in particular activities, performing particular tasks, or holding an office may be imposed on a perpetrator who committed a misdemeanour in pursuing an occupation, engaging in particular activities, performing particular tasks, or holding an office if there is a risk that such pursuit, engagement, performance, or holding of office might provide an impetus for the commission of another misdemeanour through abuse of an occupation, particular activity, task or office.

(2) The protective measure of prohibition against a natural person of pursuing an occupation, engaging in particular activities, performing particular tasks, or holding an office may be imposed with respect to one or more occupations, activities, tasks, or offices in whose pursuit, engagement in, performance, or holding a misdemeanour was committed.

(3) The protective measure of prohibition against a natural person of pursuing an occupation, engaging in particular activities, performing particular tasks, or holding an office cannot be imposed for a period shorter than one month or longer than one year, the period of imprisonment, imprisonment imposed as a substitute for an unpaid fine, or juvenile imprisonment not being credited towards the duration of this measure.

(4) Article 46, paragraph 4, of this Act may apply to a perpetrator of a misdemeanour who, in addition to being imposed a suspended sentence, or a substitute for imprisonment or juvenile imprisonment, is prohibited from pursuing an occupation, engaging in particular activities, performing particular tasks, or holding an office if they fail to comply with this prohibition.

### *Prohibition against a legal entity of engaging in particular activities or performing particular tasks*

## Article 55

(1) The protective measure of prohibition against a legal entity of engaging in particular activities or performing particular tasks may be imposed on a legal entity that committed a misdemeanour in engaging in particular activities or performing particular tasks if there is a risk that such engagement or performance might provide an impetus for the commission of another misdemeanour.

(2) The prohibition of engaging in particular activities or performing particular tasks may be imposed with respect to all or particular activities or tasks in whose engagement in, or performance a misdemeanour was committed.

(3) The protective measure of prohibition of engaging in particular activities or performing particular tasks cannot be imposed for a period shorter than three months or longer than one year.

(4) The prohibition of engaging in particular activities or performing particular tasks cannot be imposed on units of local and regional self-government, and political parties.

### *Deportation of an alien from the country*

## Article 56

(1) The protective measure of deportation of an alien from the country may be imposed on a perpetrator of a misdemeanour who is not a citizen of the Republic of Croatia and in respect of whom there is the risk that they might continue committing misdemeanours.

(2) The protective measure of deportation of an alien from the country cannot be imposed for a period shorter than three months or longer than three years.

#### *Seizure of item*

#### Article 57

(1) The protective measure of seizure of an item may be imposed in respect of an item that was intended to be used or used in the commission of a misdemeanour, or that came into existence as a result of the commission of a misdemeanour where there is a risk that this item might be reused in the commission of an offence or where its seizure seems absolutely necessary for the purpose of protecting general safety, public health or for moral reasons.

(2) In particular cases the law may prescribe mandatory seizure of item.

(3) The imposition of this protective measure does not prejudice the right of third parties to compensation in the form of damages for an item seized from the perpetrator of a misdemeanour.

(4) The items referred to in paragraph 1 of this Article shall be seized also in cases where a proceeding does not end with a misdemeanour decision finding the defendant guilty provided this is absolutely necessary for the purpose of protecting general safety or public health, or for moral reasons, or where the law so provides.

(5) Items that under the law a defendant or another person may not have or items intended to be marketed but which may be marketed only under special conditions (provided with control stamps and the like) shall be seized also in cases where proceedings do not end with a misdemeanour decision finding the defendant guilty.

#### *Prohibition to drive a motor vehicle*

#### Article 58

(1) The protective measure of prohibition to drive a motor vehicle may be imposed on a perpetrator of a misdemeanour against traffic safety where there is a risk that by driving a motor vehicle they might recommit such a misdemeanour.

(2) The protective measure of prohibition to drive a motor vehicle under the conditions set out in paragraph 1 of this Article may be imposed only in respect of a particular type or category or all types and categories of motor vehicles. In imposing the said measure, the court shall take into consideration whether a perpetrator of a misdemeanour is a professional motor-vehicle driver.

(3) The protective measure of prohibition to drive a motor vehicle cannot be imposed for a period shorter than one month or longer than two years.

#### Eighth Title (VIII)

#### APPLICATION OF MISDEMEANOUR LAW OF THE REPUBLIC OF CROATIA TO LEGAL ENTITIES AND ENTITIES EQUATED THEREWITH

#### *Misdemeanour liability of legal entities and responsible persons in legal entities*

#### Article 59

(1) This Act shall lay down the conditions for misdemeanour liability of legal entities and responsible persons in them.

(2) Misdemeanour liability of a legal entity shall cease upon its termination and where a legal successor exists, its universal legal successor shall be liable for a misdemeanour. If there is more than one successor, the court shall decide which one of them shall, in view of the nature of succession, be liable for a misdemeanour.

(3) If a legal entity ceases to exist after the misdemeanour decision becomes final, misdemeanour sanctions shall be enforced against its legal successor. In such case particular sanctions shall not be enforced if this would obviously be unfair. On the enforcement of a misdemeanour sanction against a legal successor the court shall issue a special decision.

(4) The provisions of this Act and other regulations relating to misdemeanour liability of legal entities and responsible persons therein shall also apply to entities equated with them: branch offices of domestic and foreign legal entities, other entities deprived of legal personality but independently taking part in legal transactions, and responsible persons in such entities.

#### *Basis of liability of legal entities and the responsible persons in legal entities*

##### Article 60

(1) A legal person and its responsible person are liable under misdemeanour law for violations of misdemeanour regulations of which they are guilty.

(2) A misdemeanour regulation may prescribe that only a legal entity may be held liable under misdemeanour law for a misdemeanour.

(3) The court shall find a legal entity liable under misdemeanour law also in cases where legal or actual obstacles to establishing a legal entity's liability are found to exist or where the responsible person cannot be identified.

#### *Responsible person*

##### Article 61

(1) Responsible person within the meaning of this Act shall mean a natural person managing a legal entity's business or entrusted with performing particular tasks within the legal entity's scope of activity.

(2) A misdemeanour regulation may specify which responsible person in a legal entity shall be liable for a particular misdemeanour.

(3) A responsible person shall be held liable under misdemeanour law for a committed misdemeanour also in cases where after the commission of a misdemeanour they cease working in the legal entity in question or where after the commission of a misdemeanour the legal entity in question ceases to exist.

#### *Exclusion and limitation of legal entities' liability*

##### Article 62

(1) The Republic of Croatia cannot be held liable under misdemeanour law.

(2) Units of local and regional self-government shall be held liable for misdemeanours committed by acts not included in the exercise of their public powers.

(3) Non-existence of misdemeanour liability of state bodies and units of local and regional self-government under paragraphs 1 and 2 of this Article shall not exclude the possibility of the responsible person being held liable under misdemeanour law for this misdemeanour in the bodies referred to in paragraphs 1 and 2 of this Article.

Ninth Title (IX)  
APPLICATION OF THE SUBSTANTIVE PROVISIONS OF THIS ACT TO JUVENILE  
PERPETRATORS OF MISDEMEANOURS

*Application of substantive misdemeanour legislation to juveniles*

Article 63

Unless the provisions of this Title provide otherwise, the substantive provisions of this Act shall apply to juvenile perpetrators of a misdemeanour.

*Concept of juvenile*

Article 64

- (1) Juvenile shall mean a person over the age of fourteen and under the age of eighteen.
- (2) Young juvenile shall mean a person over the age of fourteen and under the age of sixteen.
- (3) Old juvenile shall mean a person over the age of sixteen and under the age of eighteen.

*Types of sanctions*

Article 65

- (1) Misdemeanour sanctions applicable to a person who committed a misdemeanour as a juvenile shall include educational measures, protective measures and penalties (fine and juvenile imprisonment).
- (2) The only misdemeanour sanctions for committed misdemeanours that are applicable to persons who committed a misdemeanour as young juveniles shall be educational measures.
- (3) Misdemeanour sanctions for committed misdemeanours that are applicable to persons who committed a misdemeanour as old juveniles shall include educational measures and, under the conditions provided for in this Act, fines and juvenile imprisonment.
- (4) Protective measures applicable to juvenile perpetrators of misdemeanours may be imposed under the conditions provided for in this Act.

*Purpose of educational measures and juvenile imprisonment*

Article 66

In addition to the general purpose of misdemeanour sanctions, the purpose of special juvenile sanctions is to influence the upbringing, develop the overall personality, and strengthen the sense of personal responsibility of juvenile perpetrators of a misdemeanour by providing them with protection, care, assistance, and supervision, as well as with general education.

*Types of educational measures*

Article 67

- (1) Educational measures include:
  1. judicial reprimand;
  2. special obligations;



3. committal to an education centre.

(2) Educational measures referred to in paragraph 1 of this Article shall be applied in cases where it is necessary to exert an influence on a juvenile's personality and conduct by applying cautionary measures, providing guidance or applying other appropriate measures.

### *Judicial reprimand*

#### Article 68

(1) The court shall issue a judicial reprimand in cases where on the basis of a juvenile's relationship to the misdemeanour committed and their readiness not to commit misdemeanours it may be concluded that such reprimand will suffice to achieve the purpose of the educational measure.

(2) When issuing a reprimand, the court shall point out to a juvenile the social unacceptability and harmfulness of their conduct and that, if they recommit a misdemeanour, a more severe sanction might be imposed.

### *Special obligations*

#### Article 69

(1) The court may impose one or more special obligations on a juvenile if it deems that their imposing them will have a positive effect on them and their conduct.

(2) The court may impose on a juvenile the obligation to:

1. apologise to the injured party;
2. make reparation or compensate to the best of their ability for any damage caused by their misdemeanour;
3. refrain from visiting particular places and not seek the company of particular persons considered as being a bad influence on them;
4. undergo, with the consent of a juvenile's statutory representative, drug addiction treatment and treatment of other addictions;
5. be referred for the purpose of learning traffic regulations or sitting a traffic regulations examination to the competent driver training institution;
6. get involved in the work of humanitarian organisations or in activities relating to public utilities and environmental issues;
7. get involved in the work of sports and other clubs while being under pedagogic supervision in school;
8. get involved in individual or group work in a youth counselling centre.

(3) Particular special obligations may last for no more than six months and must not interfere with a juvenile's education or employment.

(4) Within the framework of the obligation referred to in paragraph 2, point 2, of this Article the court shall specify the forms and manner of damage reparation or compensation having in mind the fact that a juvenile's work duty must not exceed 20 hours within a one-month period and must be organised so as not to interfere with the juvenile's education or employment.

(5) In imposing a special obligation, the court shall in particular bring to the attention of a juvenile the fact that if they are found guilty of not fulfilling their duties, they may be committed to an education centre.

(6) All special obligations shall be fulfilled under the supervision of the welfare centre. The welfare centre shall inform the court of their fulfilment.



(7) The welfare centre shall keep special records for each juvenile on whom the court imposed an educational measure.

#### *Committal to an education centre*

##### *Article 70*

(1) The court shall apply the measure of committal of a juvenile to an education centre where it deems that the purpose of educational measures can only be achieved by using more intensified measures to influence a juvenile's personality and conduct.

(2) The court may commit a juvenile on whom the measure referred to in paragraph 1 of this Article was imposed to a centre:

1. for a certain number of hours during the day for at least eight and no more than fourteen days;

2. for an uninterrupted eight-day stay.

(3) In imposing the measure referred to in paragraph 1 of this Article attention shall be paid that as a result of the measure the juvenile does not fail to attend regular classes or show up for work.

(4) A juvenile's stay at the centre shall be filled with activities appropriate to their personality and directed at developing their sense of responsibility.

#### *Fine*

##### *Article 71*

(1) The court may impose a fine on an old juvenile-perpetrator of a misdemeanour who earns personal income from employment or property if it finds that in view of the nature and gravity of the committed misdemeanour such penalty needs to be imposed.

(2) An unpaid fine cannot be replaced by the measure of imprisonment or community service at liberty but shall be enforced against the property of the juvenile, their parents or another person providing for them.

#### *Juvenile imprisonment*

##### *Article 72*

(1) An old juvenile-perpetrator of a misdemeanour may be sentenced to juvenile imprisonment for a misdemeanour for which the law prescribes imprisonment as a more severe penalty if the court finds that in view of the nature and gravity of the misdemeanour and the high degree of guilt such sentence needs to be imposed.

(2) A sentence of juvenile imprisonment shall be imposed within the term of imprisonment prescribed for a particular misdemeanour, which shall not be shorter than three days or longer than ten days.

(3) Prior to imposing a sentence of juvenile imprisonment, the court may obtain the opinion of the competent welfare centre on the appropriateness of such penalty.

#### *Imposition of educational measures for misdemeanours in concurrence*

##### *Article 73*

(1) In the case of misdemeanours in concurrence for which it decides to impose educational measures, the court shall impose only one educational measure.

(2) The court shall proceed as provided for in paragraph 1 of this Article also in cases where after the imposition of an educational measure, the court establishes that before or after its imposition a juvenile committed a misdemeanour.

#### *Juvenile imprisonment sentence for misdemeanours in concurrence*

#### Article 74

(1) For misdemeanours in concurrence the court shall impose an aggregate term of juvenile imprisonment within the limits referred to in Article 72, paragraph 2, of this Act without beforehand determining penalties for each individual misdemeanour. If it holds that for a particular misdemeanour a juvenile should be sentenced to juvenile imprisonment, and for another imposed an educational measure, the court shall sentence them only to juvenile imprisonment.

(2) Where after passing a sentence of juvenile imprisonment, the court establishes that before or after its passing a juvenile committed a misdemeanour, it shall proceed as provided for in paragraph 1 of this Article.

#### *Imposition of a fine for misdemeanours in concurrence*

#### Article 75

(1) For misdemeanours in concurrence the court shall impose an aggregate fine according to the rule set out in Article 39, paragraph 1, point 1, of this Act without beforehand determining penalties for each individual misdemeanour. If it holds that for a particular misdemeanour a juvenile should be imposed a fine, and for another an educational measure, the court shall impose only a fine.

(2) If it holds that for a particular misdemeanour a juvenile should be imposed a fine, and for another sentenced to juvenile imprisonment, the court shall sentence them only to juvenile imprisonment.

(3) Where after imposing a fine, the court establishes that before or after imposing this fine a juvenile committed a misdemeanour, it shall proceed as provided for in paragraphs 1 and 2 of this Article.

#### Tenth Title (X)

#### CONFISCATION OF A PECUNIARY ADVANTAGE, REHABILITATION, DATA CONTAINED IN THE MISDEMEANOUR RECORD, AND LEGAL CONSEQUENCE OF CONVICTION

#### *Confiscation of pecuniary advantage obtained by a misdemeanour*

#### Article 76

(1) No one may keep a pecuniary advantage obtained by a misdemeanour.

(2) A pecuniary advantage obtained by a misdemeanour shall be confiscated on the basis of a misdemeanour decision finding that a misdemeanour was committed. Where the impossibility of confiscating in full or in part a pecuniary advantage is established, the misdemeanour court shall require the perpetrator of a misdemeanour to pay the corresponding monetary

countervalue.

(3) A pecuniary advantage obtained by a misdemeanour shall be confiscated also in cases where, regardless of the legal basis therefor, it is held by a third party if in the circumstances under which the latter obtained the advantage, they knew or could have known that the benefit was obtained by a misdemeanour.

(4) A special statute may lay down what a pecuniary advantage obtained by a misdemeanour means.

### *Rehabilitation*

#### Article 77

(1) After a term of imprisonment or juvenile imprisonment has been served, remitted, or barred by the statute of limitations, a convicted person shall have all the rights under the Constitution, a statute, or other regulation and may acquire all the rights except those limited by a protective measure. This shall also apply to a perpetrator of a misdemeanour who was imposed a cautionary measure or was granted a discharge by a misdemeanour decision.

(2) Upon expiry of three years from when a misdemeanour decision becomes final, a perpetrator of a misdemeanour shall be deemed not to have been convicted under this misdemeanour decision and any use of this information about them as a perpetrator of a misdemeanour shall be prohibited and without legal effect. A rehabilitated convicted person has the right to deny their previous conviction and consequently cannot be called to account or suffer any legal consequences.

(3) The rehabilitation referred to in paragraphs 1 and 2 of this Article shall arise *ex lege*.

### *Data contained in misdemeanour records*

#### Article 78

(1) The data contained in misdemeanour records may be made available only to courts, state administration bodies conducting misdemeanour proceedings, and state bodies – authorised prosecutors in the case of misdemeanour proceedings against a perpetrator of a misdemeanour on whom data have been requested.

(2) The data contained in misdemeanour records may also be made available to other state bodies at their reasoned request where the performance of particular tasks and duties is to be entrusted in the civil service or where this is necessary for the purpose of enabling a person on whom information has been requested to exercise specific rights before state administration bodies or bodies of local and regional self-government in administrative proceedings falling within their competence. In public procurement procedures bodies conducting public procurement procedures may request information contained in misdemeanour records only through the competent state administration body.

(3) Misdemeanour records may also be used by internal affairs authorities within their statutory powers for the purpose of detecting perpetrators of misdemeanours. The said data are considered official secrets.

(4) No one shall be required to provide evidence of their previous misdemeanour convictions or lack thereof.

(5) Everyone shall have the right to request information contained in misdemeanour records for their own use provided they prove they need such information for the purpose of exercising their rights abroad.

(6) Information on a misdemeanour for which rehabilitation has occurred cannot be given to anyone nor can they be used for any purpose whatsoever.

### *Legal consequences of conviction*

#### Article 79

- (1) The legal consequences of conviction, which include the loss or prohibition to acquire certain rights, shall be laid down by law.
- (2) The legal consequence of a conviction consisting in the acquisition of negative misdemeanour points shall be laid down by law.

### *Laying down negative misdemeanour points*

#### Article 80

- (1) Negative misdemeanour points as a legal consequence of conviction may be laid down for perpetrators found guilty of especially serious misdemeanours by a final decision.
- (2) The legal consequence of negative misdemeanour points shall arise on the day the decision finding that a misdemeanour for which the law lays down negative misdemeanour points was committed becomes final.
- (3) One misdemeanour shall carry no more than three negative misdemeanour points.

### *Application of the legal consequence of negative misdemeanour points*

#### Article 81

- (1) Upon expiry of two years from the day the decision on the basis of which a perpetrator received negative misdemeanour points became final, these points shall cease to be credited.
- (2) The provisions on the statute of limitations for the enforcement of misdemeanour sanctions under this Act shall apply *mutatis mutandis* to the enforcement of the consequence under paragraph 1 of this Article.

## PART TWO PROCEDURAL PROVISIONS

### Eleventh Title (XI) INTRODUCTORY PROVISIONS

#### *Basic purpose of procedural provisions*

#### Article 82

- (1) The procedural provisions of this Act establish rules ensuring a fair conduct of misdemeanour proceedings, protection of human rights, correct determination of facts, and lawful decision-making on misdemeanour liability before misdemeanour courts and all other bodies conducting misdemeanour proceedings so that no one innocent be convicted and the perpetrator of a misdemeanour be imposed a penalty or another misdemeanour sanction.
- (2) Before a final misdemeanour decision is taken, a defendant's liberty and other rights may be restricted only subject to the conditions laid down in this Act.

(3) If this Act does not contain provisions on particular procedural issues, the provisions of the Criminal Procedure Act shall apply accordingly, where appropriate for the purpose of misdemeanour proceedings.

### *Institution and conduct of proceedings*

#### Article 83

Unless otherwise provided in this Act, misdemeanour proceedings may be instituted and conducted only upon request of the authorised prosecutor.

### *Innocence*

#### Article 84

A person shall be innocent and may not be deemed guilty of a misdemeanour until their guilt is established by a final misdemeanour decision.

### *Right to defence*

#### Article 85

(1) The defendant shall be informed already at the first interrogation of the misdemeanour they are charged with and the evidence incriminating them. The defendant shall be deemed to have been informed of the misdemeanour they are charged with if they have duly received the motion to indict.

(2) The defendant shall be given the opportunity to respond to all incriminating facts and evidence and to state all facts and evidence in their favour.

(3) The defendant shall not be required to state their defence or answer any questions. It is prohibited and punishable to try to force a confession or another statement from the defendant or another person participating in the proceedings.

### *Rights to the arrested or detained person*

#### Article 86

(1) A person arrested or detained on suspicion of having committed a misdemeanour shall be immediately informed of the reasons for their arrest or detention, the competent body shall, at their request, inform of their arrest or detention their family or another person designated by them, and where they are being interrogated as a suspect or defendant, they shall be instructed that they are not required to give statements and that they are entitled to the professional assistance of counsel of their choosing.

(2) Arrest or detention shall mean any measure or act that includes a deprivation of liberty of a person on the suspicion that they committed a misdemeanour.

### *Language and script during proceedings*

#### Article 87

(1) The Croatian language and Latin script shall be used in misdemeanour proceedings unless the law also provides for the use of a second language or script in certain territorial jurisdictions.

(2) The parties to, participants in, and witnesses and other persons participating in the proceedings shall have the right to use their own language. If the proceedings or a particular procedural act are not conducted in the language of the person concerned, interpretation of statements made by this and other persons and translation of documents and other written materials shall be provided at this person's request. If the person in question does not understand the language of proceedings, interpretation and translation shall in any case be provided. Interpretation and translation shall be performed by an interpreter.

(3) Summonses and decisions shall be sent by the court in the Croatian language and Latin script. The motion to indict, appeal and other briefs shall be filed with the court in the Croatian language and Latin script. If within a particular territorial jurisdiction a second language or script was also introduced by law into official use, briefs may be filed with the court in this language or script as well.

(4) A defendant in detention or a person serving their sentence shall be served with a translation of the summons, decision and briefs in the language used by them in the proceedings.

(5) An alien detained on the suspicion of having committed a misdemeanour, or in custody or jail for a criminal offence, or deprived of liberty for some other reason may, from the start of a proceeding to its end, submit briefs to the court in their own language, while before and after that they may do so only subject to the condition of reciprocity.

#### *Duty to establish all important facts*

##### Article 88

(1) The court shall be required to establish fully and accurately, on the basis of evidence produced, any facts of importance for taking a lawful decision and shall establish with equal attention both the facts incriminating the defendant and the facts operating in their favour.

(2) In weighing evidence and assessing the existence or non-existence of facts the court shall exercise discretion and shall not be bound by or obliged to follow any rules of evidence.

#### *Efficiency of proceedings and prevention of abuse of the rights set out in this Act*

##### Article 89

(1) The court shall conduct proceedings quickly and without unreasonable delays, avoiding any unnecessary acts and costs, and preventing any abuse of the rights of the parties to or participants in the proceedings.

(2) A party to or participant in misdemeanour proceedings who is evidently delaying the proceedings or otherwise abusing any of the rights set out in this Act shall be denied the right to do so by court decision. An appeal against this decision shall not stay its enforcement.

#### *Illegal evidence*

##### Article 90

(1) Court decisions cannot be founded on illegally obtained evidence (illegal evidence).

(2) Illegal evidence is evidence:

1. obtained in violation of the rights guaranteed by the Constitution, statutes or international law, namely the right to:
  - a) defence;
  - b) dignity;
  - c) reputation and honour; and
  - d) inviolability of personal and family life;
2. obtained in violation of procedural misdemeanour law, which is expressly provided for in this Act as well as other evidence of which knowledge has been gained from illegal evidence.

#### *Notice of rights in proceedings*

##### Article 91

The defendant or another participant in the proceedings who on account of their obvious ignorance might omit to perform an act or fail to exercise a right shall be advised by the court of their rights under this Act and the consequences of failing to perform an act.

#### *Preliminary question*

##### Article 92

Where the application of misdemeanour law depends on the preliminary resolution of a question of law the resolution of which falls within the jurisdiction of a court in some other proceeding or another state body, the misdemeanour court or the state administration body conducting misdemeanour proceedings may itself decide on this question as well by applying the provisions relating to the presentation of evidence in misdemeanour proceedings. The decision on this question of law shall produce effect only in respect of the misdemeanour case being heard.

#### Twelfth Title (XII)

### JURISDICTION OF COURTS AND STATE ADMINISTRATION BODIES

#### *Subject-matter jurisdiction and state administration bodies*

##### Article 93

- (1) Misdemeanour cases shall be tried in misdemeanour courts and the High Misdemeanour Court of the Republic of Croatia. A special statute may confer upon state administration bodies subject-matter jurisdiction over the conduct of misdemeanour proceedings in the first instance, except over proceedings following objection against a mandatory misdemeanour warrant (Articles 239 to 244 of this Act).
- (2) Juvenile perpetrators of a misdemeanour shall always be tried in court, unless otherwise prescribed by this Act.

#### *Jurisdiction of misdemeanour courts*

##### Article 94

Misdemeanour courts shall have jurisdiction to:

1. try in the first instance all misdemeanours except those over which under a special statute



- state administration bodies have subject-matter jurisdiction;
2. decide on petitions for the reopening of misdemeanour proceedings:
    - a) in cases that were heard by them;
    - b) against final misdemeanour warrants of authorised prosecutors in cases where the misdemeanour falls within the court's subject-matter jurisdiction; and
    - c) against final mandatory misdemeanour warrants.
  3. provide legal assistance under the provisions of international treaties and this Act;
  4. perform any other tasks provided for by law.

#### *Jurisdiction of the High Misdemeanour Court of the Republic of Croatia*

##### Article 95

The High Misdemeanour Court of the Republic of Croatia shall have jurisdiction to:

1. decide in the second instance on appeals against decisions of misdemeanour courts and state administration bodies;
2. decide on extraordinary legal remedies in the cases provided for in this Act;
3. decide on conflicts of jurisdiction between courts;
4. decide on motions for recusal of court presidents;
5. perform other tasks as laid down by law.

#### *Jurisdiction of state administration bodies*

##### Article 96

State administration bodies shall have jurisdiction to:

1. decide in the first instance on a misdemeanour where this is provided for in a special statute;
2. decide on petitions for the reopening of misdemeanour proceedings:
  - a) in cases falling within their competence; and
  - b) against a final misdemeanour warrant in a misdemeanour case falling in the first instance within the competence of the state administration body in question.
3. perform any other tasks laid down by law.

#### *Composition of courts*

##### Article 97

- (1) In misdemeanour courts misdemeanour decisions and other decisions shall be taken by a single judge.
- (2) The High Misdemeanour Court of the Republic of Croatia shall decide in panels consisting of three judges.

#### *Territorial jurisdiction*

##### Article 98

- (1) Territorial jurisdiction shall lie with the court within whose territory a misdemeanour was committed or attempted.
- (2) A statute may provide that a particular misdemeanour court is to decide cases relating to a

particular type of misdemeanour falling within the jurisdiction of misdemeanour courts within the territorial jurisdictions of a number of misdemeanour courts or that such court is to decide such cases for the entire territory of the Republic of Croatia.

(3) If a misdemeanour is committed or attempted within the territorial jurisdictions of different courts or on the border thereof, or if it is unknown within which territorial jurisdiction it was committed or attempted, jurisdiction shall lie with the court that first instituted proceedings, and if proceedings have not yet been instituted – with the court with which the motion to indict was first filed.

(4) If a misdemeanour is committed on board a vessel or aircraft while it is docked at a domestic port or airport, jurisdiction shall lie with the court within whose territorial jurisdiction this port or airport is located. In all other cases, if a misdemeanour is committed on board a vessel or an aircraft, jurisdiction shall lie with the court within whose territorial jurisdiction the home port of a domestic vessel or aircraft, or a domestic port of call at which a vessel or aircraft (domestic or foreign) makes its first stop is located, unless a special statute provides otherwise.

(5) If a misdemeanour is committed through the press, jurisdiction shall lie with the court in whose territory the material was printed. If this location is unknown or the material in question was printed outside the territory of the Republic of Croatia, jurisdiction shall lie with the court in whose territory the printed material is being distributed.

(6) Where the law provides that misdemeanour liability rests with the author of a text, jurisdiction shall also lie with the court within whose territory the author is domiciled or resident or has their registered office, or with the court within whose territory the event to which the text refers took place.

(7) The provisions of paragraph 4 of this Article shall apply accordingly if a text or a statement was made public via the radio, television or another electronic medium.

(8) If the place where a misdemeanour was committed is unknown, jurisdiction shall lie with the court in whose territory the defendant is domiciled or resident or has their registered office. After a proceeding is instituted, jurisdiction shall remain with this court even if thereafter the place of commission of a misdemeanour becomes known.

(9) If under the provisions of this Act it cannot be established which court has territorial jurisdiction, the High Misdemeanour Court of the Republic of Croatia shall designate one of the misdemeanour courts as the court before which proceedings shall be conducted.

### *Joinder of Proceedings*

### *Article 99*

(1) Where one and the same person is charged with a number of misdemeanours falling within the jurisdiction of two or more courts, jurisdiction shall lie with the court which, upon request of the authorised prosecutor, first institutes a proceeding, and where a proceeding has not yet been instituted, with the court with which the motion to indict is first filed.

(2) Under the provisions of paragraph 1 of this Article, jurisdiction shall be determined also in cases where the injured party concurrently commits a misdemeanour against the defendant.

(3) Co-perpetrators shall, as a rule, be tried by the court which, having jurisdiction over one of the co-perpetrators, first institutes proceedings.

(4) The court having jurisdiction over the perpetrator of a misdemeanour shall, as a rule, also have jurisdiction over participants (inciters and aiders).

(5) All the cases referred to in paragraphs 1, 2, 3 and 4 of this Article joint proceedings shall, as a rule, be conducted and a single judgement delivered.

(6) Joint proceedings shall, as a rule, be conducted and a single judgement delivered also in

respect of defendants-legal entities and responsible persons in legal entities.

(7) The court may decide to conduct joint proceedings and deliver one judgement also in cases where a number of persons are charged with a number of misdemeanours provided the committed misdemeanours are mutually linked and the majority of evidence is the same.

(8) The court may decide to conduct joint proceedings and deliver one judgement if separate proceedings are conducted before the same court against one and the same person for a number of misdemeanours or against a number of persons for one and the same misdemeanour.

(9) The joinder of proceedings decision shall be issued by the court having jurisdiction to conduct joint proceedings.

(10) The joinder of proceedings decision shall not be subject to appeal.

### *Severance of proceeding*

#### Article 100

(1) Until the end of a trial or proceeding, the court having jurisdiction under Article 99 of this Act may for important reasons or for reasons of expediency issue a decision severing a proceeding for particular misdemeanours or against particular defendants. The court shall conclude such severed proceedings by itself or shall refer the case to another court having jurisdiction.

(2) The severance of proceedings decision shall not be subject to appeal.

### *Transfer of jurisdiction*

#### Article 101

(1) Where the court having jurisdiction is for legal or factual reasons prevented from conducting proceedings, it shall so inform the High Misdemeanour Court of the Republic of Croatia which shall designate another court with subject-matter jurisdiction to conduct the proceedings in question.

(2) The High Misdemeanour Court of the Republic of Croatia may decide to refer the case to another court having subject-matter jurisdiction if it is obvious that this will facilitate the conduct of proceedings or where there are other important reasons therefor.

(3) The court may decide as referred to in paragraph 2 of this Article upon motion of the misdemeanour court judge or the state attorney acting as prosecutor in the proceeding.

(4) In a misdemeanour proceeding before a state administration body conducting misdemeanour proceedings the decision referred to in paragraph 3 of this Article shall be issued by the competent ministry.

### *Lack of jurisdiction*

#### Article 102

(1) The court shall make sure it has subject-matter and territorial jurisdiction and shall, as soon as it notices it lacks jurisdiction, issue a decision declaring itself without jurisdiction. Upon finality of the said decision, the court shall refer the case to the court or another misdemeanour authority having jurisdiction.

(2) After a proceeding is instituted, the court cannot declare itself without territorial jurisdiction nor can the parties raise the objection of lack of territorial jurisdiction.

(3) The court lacking jurisdiction shall perform such procedural acts as are exposed to danger in delay.

### *Conflict of jurisdiction*

#### Article 103

(1) If a court that has been referred a case under Article 102, paragraph 1, of this Act deems itself without jurisdiction, it shall institute a proceeding for the resolution of the conflict of jurisdiction.

(2) If following an appeal against the decision of a court declaring itself without jurisdiction (Article 102, paragraph 1) the High Misdemeanour Court decides which court has jurisdiction, the court declared to have jurisdiction by this decision shall be bound by this decision on jurisdiction.

(3) Any conflict of jurisdiction between misdemeanour courts shall be decided by the High Misdemeanour Court of the Republic of Croatia.

(4) Any conflict of interest between state administration bodies conducting a misdemeanour proceeding shall be decided by the competent ministry and where the conflict of jurisdiction in question is a conflict of jurisdiction between state administration bodies of different ministries, by the Government of the Republic of Croatia.

(5) Any conflict of jurisdiction between the courts and state administration bodies conducting misdemeanour proceedings shall be decided by the Constitutional Court of the Republic of Croatia.

(6) In deciding on a conflict of jurisdiction, the High Misdemeanour Court of the Republic of Croatia, or the competent ministry, or the Government of the Republic of Croatia may, alongside taking a conflict of interest decision, decide *ex officio* on the transfer of territorial jurisdiction provided the conditions referred to in Article 101 of this Act are met.

(7) Until the conflict of interest is resolved, the court shall perform such procedural acts as are exposed to danger in delay.

### Thirteenth Title (XIII)

#### RECUSAL

### *Disqualification and removal*

#### Article 104

(1) A judge shall be disqualified from exercising judicial office:

1. if they were injured by the misdemeanour in question;
2. if they are the spouse, a lineal relative regardless of the degree of kinship, collateral relative within the fourth degree of kinship, or relative within the second degree by affinity of the defendant, their defence counsel, prosecutor, injured party, statutory representative or attorney-in-fact, or representative of a legal entity;
3. if they are the guardian, ward, adoptive parent, adoptee, foster parent, or foster child of the defendant or their defence counsel or spouse, prosecutor, injured party, or representative of a legal entity;
4. if as part of the same proceeding they conducted the first-instance proceeding or took part in the first-instance proceeding as: a person who made a particular decision in the proceeding, prosecutor, defence counsel, statutory representative or attorney-in-fact of the injured party or the prosecutor, or were interrogated as a witness or expert witness, or took part in an

inspection or other type of supervisory activity on the basis of which the misdemeanour proceeding has been instituted.

(2) A judge may be removed from exercising judicial office if, beyond the cases referred to in paragraph 1 of this Article, circumstances raising doubt as to their impartiality be stated and proven.

(3) As soon as a judge learns of the existence of any of the grounds for recusal referred to in paragraph 1 of this Article or circumstances warranting their removal (paragraph 2 of this Article), they shall immediately inform thereof the president of the court who shall designate their substitute. In the case of recusal or removal of a court president, the latter shall designate their substitute from among the judges of the court in question or, where this is not possible, shall proceed as provided for in 101, paragraph 1, of this Act.

(4) When a judge learns that a motion for their recusal has been filed, they shall immediately discontinue all work on the case and, in the case of removal referred to in paragraph 2 of this Article, may, until the motion is decided, perform only such acts as are exposed to danger in delay.

#### *Parties' motion for recusal*

#### Article 105

(1) Recusal may also be requested by the parties.

(2) The parties may file a motion for recusal until the start of a misdemeanour proceeding (Article 157, paragraph 2) and where they learn of a ground for disqualification (Article 104, paragraph 1) subsequently, they shall file such motion immediately upon learning of this ground.

(3) A motion for the recusal of a judge of the High Misdemeanour Court of the Republic of Croatia may be included in the appeal, but no later than the opening of the session of the court panel.

(4) In their recusal motion a party must state the name of the judge hearing the case, i.e., a judge of the High Misdemeanour Court of the Republic of Croatia whose recusal they are requesting.

(5) In its motion a party shall state the evidence and circumstances which in its opinion support the existence of a statutory ground for recusal. The motion may not assert any grounds already put forward in a previously denied motion for recusal.

#### *Deciding on a motion for recusal*

#### Article 106

(1) A motion for recusal referred to in Article 105 of this Act shall be decided by the president of a misdemeanour court. Where the recusal of a court president is also requested, such motion shall be decided by the deputy court president.

(2) Where the recusal of a court president who has no deputy is requested, the recusal decision shall be taken by the president of the High Misdemeanour Court of the Republic of Croatia. Where the recusal of the president of the High Misdemeanour Court of the Republic of Croatia is requested, the recusal decision shall be taken by the panel of all the judges of that court, the president of the court not being allowed to take part in deciding on recusal.

(3) Before making the recusal decision, a statement of the judge, i.e., court president in question shall be obtained and, where necessary, other inquiries shall be made.

(4) If a motion for removal referred to in Article 104, paragraph 2, of this Act is filed after a

proceeding has already been instituted or a motion for recusal is filed contrary to the provision of Article 105, paragraphs 4 and 5, of this Act, such motion shall be rejected in full or in part by a decision. The said decision may also be made by the judge, i.e., court president whose recusal is being requested.

(5) If a judge or a court president deems that the motion for their recusal is obviously unfounded, they may dismiss such motion themselves and resume proceedings. In such case, the provision of paragraph 3 of this Article shall not apply.

(6) The decision on the motion for recusal shall not be subject to special appeal. However, grounds for recusal may be stated in the appeal against the judgment.

#### *Recusal of other participants in a proceeding*

### Article 107

(1) Unless otherwise provided, the provisions on the recusal of judges shall likewise apply to state attorneys and persons who under the Act on the State Attorney's Office are authorised to represent the state attorney in proceedings, persons representing other prosecutors in proceedings, recorders, interpreters, defence counsel, other experts and expert witnesses. No grounds for recusal shall exist where a defendant, injured party or another prosecutor is represented by a person related to them.

(2) The recusal of a recorder, interpreter, expert, expert witness, defence counsel, and the person representing the prosecutor shall be decided by the court conducting the proceeding.

(3) The competent state attorney shall be informed of the motion for the recusal of a state attorney or the person substituting for the state attorney and shall be set a deadline by which they are to designate, where they deem this necessary, another person who will substitute for the state attorney or the person substituting for the state attorney in the proceeding. The notice shall warn of the consequences, set out in the Act, of participation in a proceeding of whoever should have been recused.

### Fourteenth Title (XIV)

## SUBJECTS OF MISDEMEANOUR PROCEEDINGS

#### *Parties to and participants in proceedings*

### Article 108

(1) Parties to misdemeanour proceedings include:

1. the authorised prosecutor;
2. the defendant.

(2) Participants in misdemeanour proceedings include:

1. defence counsel;
2. statutory representative or attorney-in-fact;
3. injured party;
4. another party with an interest in the conduct of particular misdemeanour proceedings.

#### *Authorised prosecutor*

### Article 109



(1) Authorised prosecutors shall mean:

1. the state attorney;
2. a state administration body;
3. legal entity with public powers;
4. the injured party.

(2) If two or more authorised prosecutors file a motion to indict against the same defendant and for the same misdemeanour before the trial is scheduled or the defendant summoned for interrogation, and one of the motioning parties is the state attorney, proceedings shall be conducted at the request of the state attorney.

(3) If motions to indict against the same defendant and for the same misdemeanour were filed within the time limit referred to in paragraph 2 of this Article by authorised prosecutors – a state administration body or a legal entity with public powers and the injured party, proceedings shall be conducted on the basis of the motion to indict of the state administration body or the legal entity with public powers.

(4) If as a result of one and the same misdemeanour committed by the defendant a number of persons have suffered damage and only some or all of them have filed a motion to indict against this defendant within the time limit referred to in paragraph 1 of this Article, proceedings on all filed motions to indict shall be consolidated, joint proceedings conducted, and a single judgment delivered.

(5) If in the course of proceedings the prosecutor on the basis of whose motion to indict proceedings are conducted withdraws their motion to indict, proceedings shall continue on the basis of the motion to indict already filed by the other authorised prosecutor under the rules set out in paragraphs 2 to 4 of this Article. If in this case the other authorised prosecutor has not yet filed, within the meaning of paragraphs 2 to 4 of this Article, a motion to indict, the state attorney shall solely be authorised to take over misdemeanour prosecution or file a new motion to indict against the same defendant and for the same misdemeanour.

(6) If motions to indict are filed by more than one authorised prosecutor, the court shall not act on those motions to indict on the basis of which it does not, under this Article, conduct proceedings. When the misdemeanour decision becomes final, the court shall decide to dismiss such motions to indict. This decision shall not be subject to appeal.

(7) A prosecutor may withdraw their motion to indict until a non-final misdemeanour decision is made.

(8) Under this Act, bodies of units of local and regional self-government shall have the same powers, rights and duties in respect of misdemeanours falling within their jurisdiction. The provisions of this Act relating to state administration bodies shall apply accordingly to bodies of local and regional self-government in respect of misdemeanours falling within their jurisdiction.

*State attorney*

## Article 110

(1) A state attorney may file a motion to indict for all misdemeanours.

(2) Subject-matter jurisdiction for misdemeanour prosecution before misdemeanour courts shall be vested in municipal state attorneys.

(3) Territorial jurisdiction shall be vested in such municipal state attorney as the provisions applicable to the territorial jurisdiction of a court for which the state attorney was appointed provide.

(4) The Attorney-General of the Republic of Croatia shall represent the state in the High Misdemeanour Court of the Republic of Croatia.



(5) The state attorney shall perform all such acts in a proceeding as by law they are authorised to perform either in person or through persons who under law are authorised to represent them in misdemeanour proceedings.

*State administration body*

Article 111

(1) A state administration body that is authorised to implement directly or oversee the implementation of a particular misdemeanour legislation shall be authorised to file, in respect of the misdemeanour provided therein, motions to indict. Where such body fails to file a motion to indict, a motion to indict may be filed by a higher instance state administration body overseeing the implementation of this misdemeanour legislation.

(2) As the filer of a motion to indict, a state administration body shall perform all such acts in a proceeding as it is authorised by law to perform via the person authorised therefor.

*Legal entity with public powers*

Article 112

(1) Legal entities with public powers shall be authorised to carry out misdemeanour prosecution for such misdemeanours as are prescribed within their public powers.

(2) A legal entity with public powers shall perform all such acts in the course of misdemeanour proceedings as by law it is authorised to perform via the person it has authorised therefor as its representative.

*Injured party - prosecutor*

Article 113

(1) An injured party whose proprietary or personal right has been violated or jeopardised by a misdemeanour is authorised to file with a court a motion to indict for this misdemeanour.

(2) The injured party may be interrogated in a proceeding as a witness.

(3) The injured party-prosecutor shall perform all such acts in a proceeding as they are authorised by law to perform either in person or through an authorised attorney-in-fact or representative.

(4) If the injured party is a juvenile or a person deprived of their legal capacity to contract, the motion to indict shall be filed by their statutory representative who shall also perform all acts in the proceeding and shall be allowed to have an authorised attorney-in-fact.

(5) An injured party-old juvenile (person over the age of sixteen years) may file a motion to indict in person as well and perform in the proceedings in question acts in relation thereto.

(6) If the injured party-prosecutor dies within the time limit for the filing of the motion to indict or in the course of proceedings conducted on the basis of their motion to indict, their spouse, common-law spouse, children, parents, siblings, adopter and adoptee may within a month of their death file a motion to indict or state that the proceedings will be continued by them.

*Defendant*

Article 114

(1) The defendant in a misdemeanour proceeding shall be:

1. a natural person;
2. a natural person-craftsperson or another type of sole trader. If a misdemeanour regulation does not provide for the sanctioning of and a penalty for a defendant-natural person craftsperson or another type of sole trader, the natural person shall be liable as the defendant for the misdemeanour.
3. a legal entity and entities equated thereto;
4. a responsible person in a legal entity.

(2) The defendants referred to in paragraph 1, points 1, 2 and 4, of this Article shall state their defence in person and perform other acts in the proceedings in person or through authorised defence counsel.

(3) Unless otherwise provided by this Act, a defendant-legal entity or entity equated therewith shall have their defence undertaken exclusively by their authorised representative and shall perform other acts in the proceedings through an authorised representative or authorised defence counsel.

(4) If misdemeanour proceedings are conducted concurrently for the same misdemeanour against both a legal entity and its responsible person, and the responsible person is the sole authorised representative and employee of the legal entity, this responsible person shall also be the legal entity's representative.

(5) Without prejudice to the case referred to in paragraph 4 of this Article, the representative of a defendant-legal entity or an entity equated therewith shall participate in misdemeanour proceedings and be authorised to perform all such acts as the defendant may perform. A defendant-legal entity may have only one representative which in the course of proceedings it may replace.

(6) In the first summons the court shall invite a legal entity to appoint its representative in writing and provide proof that this person is authorised under this Act to represent this legal entity. The decision on the appointment of a representative shall be delivered by the legal entity before the start of the proceeding or by the legal entity's representative themselves upon the performance of the first act in the proceeding.

(7) In a misdemeanour proceeding the appointed representative of a defendant-legal entity or an entity equated therewith may be:

1. a person entered in the commercial or other register as the person authorised to represent;
2. an employee or member of a legal entity appointed as the legal entity's representative by the director of or another person in a leadership position at the defendant-legal entity or an entity equated therewith.

(8) If a defendant-legal entity or an entity equated therewith fails to proceed as provided for in paragraphs 6 and 7 of this Article, or if the court deems that there is a conflict of interest between the legal entity and the responsible person as set out in paragraph 4 of this Article, the court shall decide to appoint its representative in the misdemeanour proceeding in accordance with provision of paragraph 7 of this Article. If there is no such person, the court shall decide to appoint for the legal entity court-appointed defence counsel who shall be vested with all the powers of a legal entity's representative. Against such appointed counsel it shall not be possible to take coercive measures that under law may be taken against the representative of a defendant-legal entity.

(9) There shall not be appointed a representative of a legal entity pursuant to paragraph 8 of this Article where the conditions for the conduct of proceedings in the absence of a defendant-legal entity have been fulfilled.

(10) Decisions made pursuant to paragraph 8 of this Article shall not be subject to special appeal.

## *Defence counsel*

### Article 115

- (1) Defendant's defence counsel shall be a lawyer who in the proceeding in question may be substituted by a trainee lawyer who has passed the bar examination.
- (2) Before performing the first act in a proceeding, defence counsel shall provide the court with a power-of-attorney signed by the defendant. The latter may also grant an oral power-of-attorney to defence counsel which shall be stated on the record made by the court conducting the proceeding.
- (3) The rights and duties of defence counsel shall expire upon the defendant's revocation of the power of attorney and their notification thereof to the court and in any case upon the final termination of a misdemeanour proceeding.
- (4) Unless a defendant explicitly objects thereto, defence counsel for them may be retained also by their statutory representative, spouse or common-law spouse, lineal relative, adopter, adoptee, sibling or foster parent.
- (5) One lawyer may act as joint defence counsel for two or more defendants in the same or separate proceedings provided this is not contrary to the interests of their defence.
- (6) Defence counsel may not be:
  1. a party that has suffered loss, damage or injury as a result of the misdemeanour in question, or the injured party's spouse or common-law spouse, or lineal relative regardless of their degree of kinship, or collateral relative within the fourth degree of kinship, or relative by affinity within the second degree of kinship;
  2. the subsidiary prosecutor, or their spouse or common-law spouse, or lineal relative regardless of their degree of kinship, or collateral relative within the fourth degree of kinship, or relative by affinity within the second degree of kinship;
  3. a person summoned as a witness in the proceeding, unless this Act exempts them from the duty to testify and they have declared that they will not testify, or if the defendant lodged a request in the proceeding that their defence counsel be interrogated as a witness;
  4. a person who acted in the same case as a judge or state attorney or any other authorised prosecutor or who took part in preparing the filing of the motion to indict;
  5. a representative of a defendant-legal entity in the misdemeanour proceeding in question;
  6. a co-defendant in the same misdemeanour proceeding;
  7. a person acting as the interpreter in the same proceeding.
- (7) Defence counsel may perform for the benefit of the defendant all such acts in the proceeding as the defendant themselves may perform, with the exception of stating a defence for the defendant.
- (8) After a motion to indict has been filed with the court, defence counsel shall have the right to examine any documents and items obtained that serve the purpose of establishing the facts of the case.

## *Injured party and other participants in the proceeding*

### Article 116

- (1) A party that has suffered loss, damage or injury as a result of a misdemeanour shall, unless the proceeding has been instituted on the basis of their motion to indict, be a participant in a misdemeanour proceeding in which they shall exercise all their rights in the manner and under the conditions set forth in this Act.
- (2) The injured party shall have the right to request from the court, until the end of the

proceeding, to deliver a judgment obliging the defendant to compensate them for any damage or loss caused to them by the misdemeanour and in relation thereto to propose to the court the taking of necessary evidence, to produce evidence for the purpose of establishing the defendant's guilt for the misdemeanour in question, to put questions to the defendant, witnesses or expert witnesses on the occasion of their interrogation, to raise objections to their statements, and to make other statements or suggestions.

(3) The injured party may exercise their rights in a proceeding either in person or through an authorised attorney-in-fact. If the injured party is under the age of sixteen years or has been deprived of their legal capacity to contract, all acts in the proceeding shall be performed by their statutory representative who may have an attorney-in-fact.

(4) In the course of a proceeding the injured party may be interrogated as a witness about the misdemeanour in question and the damage or loss suffered by them as well as about any other facts to be established in the proceeding.

(5) Where the injured party is a legal entity, its authorised representative shall be interrogated about the circumstances referred to in paragraph 4 of this Article.

(6) At the request of the injured party or if the injured party is obviously ignorant, the judge shall inform the injured party of their rights within the meaning of this Article and of any other rights which they have under this Act.

(7) A participant in a proceeding shall also mean any person who has not suffered loss, damage or injury as a result of a misdemeanour but who has been temporarily deprived of an item or in respect of whose item seizure has been proposed because the item was used in or came into existence through the commission of a misdemeanour, or who obtained as a result of a misdemeanour a pecuniary advantage whose confiscation is now proposed, or in respect of whom such decision has already been taken. They shall exercise their rights in the proceeding in the manner and under the conditions laid down in this Act.

## Fifteenth Title (XV) BRIEFS AND RECORDS

### *Briefs*

#### Article 117

(1) Unless this Act provides otherwise, motions to indict, motions, remedies and other statements and communications shall be filed in writing.

(2) The briefs referred to in paragraph 1 of this Article must be comprehensible and contain all the elements necessary for proceeding on the basis thereof.

(3) Briefs that under this Act are to be served on the counter-party shall be submitted to the court in such number of copies as is sufficient for the court and the counter-party. If a brief is not submitted in a sufficient number of copies, the court shall make enough copies thereof at the expense of the party that submitted the brief.

(4) Unless otherwise laid down in this Act, the court shall decide to reject any brief that is incomprehensible or does not contain all the elements necessary for proceeding on the basis thereof. Unless the submission of a brief is subject to a particular time limit that has already expired, the submitter may resubmit the brief in question.

(5) The decision rejecting a brief, referred to in paragraph 4 of this Article, shall be subject to appeal by its submitter.

## *Insulting briefs*

### Article 118

- (1) The court may decide to impose a fine of up to HRK 5,000.00 on whoever insults in a brief the court or a participant in a proceeding.
- (2) The decision imposing a fine shall be issued by the court to which a brief is to be or has been submitted.
- (3) The Croatian Bar Association and the responsible minister shall be informed of the imposition of a fine on, respectively, a lawyer or trainee lawyer and a state administration officer.
- (4) For a brief referred to in paragraph 1 of this Article a state attorney shall not be imposed a fine. Instead, the Attorney-General of the Republic of Croatia shall be informed of such a brief.
- (5) The decision referred to in paragraph 1 of this Article shall be subject to appeal by whoever was imposed a fine.
- (6) The imposition of the fine under paragraph 1 of this Article shall be without prejudice to the prosecution and imposition of a misdemeanour sanction for a misdemeanour committed by insult.

## *Record of an act in a proceeding and its content*

### Article 119

- (1) Of any act performed in the course of a misdemeanour proceeding a record shall be drawn up at the same time as the act is being performed and where this is not possible, then immediately thereafter.
- (2) A record shall be drawn up by the recorder. Only where lodgings or a person is searched or where an act is performed outside of the official premises and a recorder cannot be made available, a record may be drawn up by the person performing the act in question.
- (3) Where a record is drawn up by the recorder, the person performing an act shall dictate to the recorder what should be included in the record, except where this Act provides that a record may be drawn up by a court advisor or a trainee judge.
- (4) The person being interrogated may be allowed to state their answers directly in the record. In the case of abuse, they may be denied this right.
- (5) A record shall include the name of the state body before which the act is performed, the place where the act is performed, the date and time when the act started and ended, the names of the persons present and the capacities in which they are present, and the designation of the misdemeanour case in which the act is performed.
- (6) A record shall contain the essential elements concerning the course and content of the act performed. Only such content of testimonies and statements given as is essential shall be recorded in narrative form in the record. Questions shall be recorded in the record only where this is necessary for the purpose of understanding the answers. If necessary, the question asked and the answer given shall be recorded in the record verbatim.  
If in performing an act items or files are seized, this shall be noted in the record and either the items seized shall be appended to the record or the location where they are kept shall be stated.
- (7) In performing such acts as an inspection, search of lodgings or persons, or identification, information that is important in view of the significance of such acts or for establishing the identity of particular items (description, measures and size of items or traces, marking of

items, etc.) shall also be noted in the record. Where sketches, drawings, blueprints, photographs, film or other technical recordings have been made, this shall also be stated on the record and appended thereto.

(8) A record shall be drawn up in an orderly manner. Nothing may be subsequently included or changed in it. Any parts crossed out must remain legible. A record shall be taken by means of a typewriter or computer, unless due to special circumstances this is not possible. Such circumstances shall be stated on the record. If a record consists of a number of sheets of paper, such sheets shall be numbered. Any changes, corrections and additions shall be entered at the end of the record and shall be certified by the persons signing the record.

### *Signing of a record*

#### Article 120

(1) The person being interrogated, the persons required to be present at the performance of an act in a proceeding, and the parties, defence counsel and injured party, if present, shall have the right to read the record or, if they cannot read, request that the record be read to them. They shall be informed of this by the person performing the act in question. It shall be stated on the record whether such information has been given and whether the record has been read.

(2) The record shall be signed by the interrogated person. Where a record consists of a number of pages, the interrogated person shall sign each page.

(3) The interpreter, if there is one, witnesses whose presence is mandatory during the performance of the act in question and, in the case of a search, the person searched or the person whose home or other premises are searched shall sign themselves at the end of the record. Where a record is not drawn up by the recorder (Article 119, paragraph 2), it shall be signed by the persons present at the performance of the act in question. Where there are no such persons or such persons cannot understand the content of the record, the record shall be signed by two witnesses provided it is possible to ensure their presence.

(4) Where a person cannot write, they shall, in lieu of their signature, impress the print of their right index finger, under which the recorder shall record the person's name. If due to the impossibility of impressing a print of the right index finger, a print of another finger or of a left-hand finger is impressed, it shall be stated on the record of which finger and hand a print has been impressed.

(5) If the interrogated person has no hands, they shall read the record, and if they cannot read, the record shall be read to them, and this shall be noted in the record. If the interrogated person refuses to sign or impress their fingerprint on the record, this as well as the reason for their refusal shall be noted in the record.

(6) If an act cannot be performed without an interruption, the date and time of the interruption as well as of the resumption shall be recorded in the record.

(7) In case of an objection to the content of a record, such objection shall also be recorded in the record.

(8) The record shall be signed at the end by the person who performed the act in question and the recorder.

### *Exclusion of a record from the case file*

#### Article 121

(1) Where this Act provides that a particular piece of evidence cannot serve as the basis for a court decision, the judge shall, upon the motion of the parties or by virtue of their office,



immediately decide on its exclusion from the case file. The record or part thereof containing such piece of evidence shall also be excluded.

(2) Any materials excluded under paragraph 1 of this Article shall be sealed in a special envelope and kept separately in the case file and it shall not be possible to examine or use them in the course of the proceeding. The High Misdemeanour Court of the Republic of Croatia may read and use such excluded materials when deciding on an appeal against a judgement in respect of the appellate objection to the exclusion decision.

(3) The exclusion decision shall not be subject to special appeal.

(4) In the case of proceedings in which a misdemeanour warrant is issued, the record shall not be excluded.

## Sixteenth Title (XVI) TIME LIMITS AND *RESTITUTIO IN INTEGRUM*

### 1. TIME LIMITS

#### *General provisions*

#### Article 122

(1) The time limits provided for in this Act cannot be extended unless the law explicitly allows this. In the case of a time limit that is prescribed by this Act for the purpose of protecting the right of the defence or other procedural rights of the defendant, such time-limit may be shortened if so requested by the defendant or defence counsel in writing or orally on the record before the court.

(2) Where a statement must be given within a particular time limit, it shall be deemed given in due time if it is handed over (in person or by other communication means) to whoever is authorised to receive it before the expiry of the said time limit.

(3) If a statement is given by registered mail, telegraph or by using another long-distance postal service, the date of its giving to the post or another authorised organisation shall be deemed the date of its giving to the recipient. It shall be deemed that the sender of a statement did not miss the time limit if the recipient does not receive the sent statement in time due to a malfunction of the device for the sending or receipt of messages of which the sender was unaware.

(4) An arrested or detained defendant may make a time-limited statement also on the record kept with the body conducting the proceeding or the body that arrested them or that is holding them in detention, and a person serving a prison sentence or held at an institution enforcing a protective or educational measure may make such statement to the management body of the institution at which they are held. The date and time when such statement is made to the management body of an institution shall be deemed the moment such statement is made to the authority competent to receive it.

(5) If, due to the ignorance or an obvious error on the part of the person submitting a time-limited brief, the brief is submitted or delivered to the court lacking jurisdiction before the expiry of the time limit and is therefore received by the court having jurisdiction after the expiry of the time limit, the brief shall be held to have been submitted in due time.

#### *Computation of time limits*

#### Article 123



- (1) Time limits shall be calculated in hours, days, months, and years.
- (2) The hour or date when the delivery or the statement was made, or the hour or date when an event from which the time period is to be calculated occurs shall not be counted as falling within the time limit in question. Instead, the time limit shall be deemed to start in the first subsequent hour or on the first subsequent day. A day shall have twenty-four hours and months shall be calculated according to calendar time.
- (3) Time limits expressed in months or years shall end with the expiry of whichever day in the last month or year is the same day of the month or year as the day on which the time limit started to run (in accordance with paragraph 2). If the day on which a time limit should expire does not occur in the last month, the time limit shall end with the expiry of the last day of that month.
- (4) If the time limit ends on an official holiday, a Saturday or Sunday or on some other day when the state body is closed, it shall be extended until the end of the first subsequent working day.

## 2. *RESTITUTIO IN INTEGRUM*

### *Conditions*

#### Article 124

- (1) A defendant who has good cause for missing the time limit for filing an appeal against a judgement shall be granted *restitutio in integrum* by the court so as to be able to file the appeal if, within eight days from the day the impediment is removed, they file concurrently a motion for *restitutio in integrum* and the appeal.
- (2) Following the expiration of one month from the day of expiry of the time limit, no motion for *restitutio in integrum* may be filed.

### *Deciding on the motion for restitutio in integrum*

#### Article 125

- (1) The motion for *restitutio in integrum* shall be filed with the court of first instance concurrently with the appeal. The court of first instance shall deliver the motion and the appeal to the High Misdemeanour Court which shall decide thereon.
- (2) In deciding on a motion for *restitutio in integrum*, the High Misdemeanour Court of the Republic of Croatia shall:
  1. reject the motion as inadmissible and in doing so, neither rule on its well-foundedness nor proceed to consider the appeal, if an appeal has been filed with the motion, if:
    - a) the motion has been filed by a person not authorised to file it;
    - b) the motion has been filed without filing at the same time also the appeal;
    - c) the motion has been filed after the appeal was rejected;
    - d) the motion has been filed after the expiration of the time limits referred to in Article 124, paragraphs 1 and 2, of this Act.
  2. accept the motion for *restitutio in integrum* as well-founded and accept the appeal as timely filed if it determines that there was good cause for missing the time limit, and thereupon resume the proceeding on appeal;
  3. dismiss the motion for *restitutio in integrum* as unfounded if it determines that there is no good cause for missing the time limit for the filing of the appeal and reject the appeal itself as not having been filed in due time.

*Motion for restitutio in integrum and stay of enforcement of a judgment*

Article 126

The motion for *restitutio in integrum* shall not, as a rule, stay the enforcement of the decision referred to in Article 124, paragraph 1, of this Act. However, the High Misdemeanour Court may, upon application of the person who filed the motion, in especially justified cases, decide that enforcement be stayed pending the decision on the motion.

Seventeenth Title (XVII)

MEASURES FOR SECURING THE PRESENCE OF THE DEFENDANT AT AND THE  
SUCCESSFUL CONDUCT OF A MISDEMEANOUR PROCEEDING

1. COMMON PROVISIONS

*Types of measures and application principles*

Article 127

(1) Measures for securing a defendant's presence at a proceeding and measures for the successful conduct of a proceeding, which may be imposed in the course of a misdemeanour proceeding, including before its institution, shall include the following:

1. summons to the defendant;
2. bringing the defendant before the judge;
3. precautionary measures;
4. bail;
5. arrest;
6. detention.

(2) In deciding on the measures for securing the defendant's presence at proceedings, the court shall take care not to apply a measure more severe than the measure that can serve the same purpose.

(3) The court shall revoke *ex officio* the measures referred to in paragraph 1 of this Article or substitute them for less severe measures if the statutory conditions for their application have ceased to exist or if such conditions have come to exist that the same purpose can be achieved by a less severe measure.

2. SUMMONS AND ARRAIGNMENT

*Summoning a defendant*

Article 128

(1) The presence of a defendant in the course of a misdemeanour proceeding shall be ensured by means of a summons. Such summons shall be issued by the court.

(2) Summoning shall be effected by means of a sealed written summons which shall state the following:

1. the name of the summoning court;
2. the full name of the defendant;
3. the name or designation of the misdemeanour they are charged with;
4. the place where the defendant is to appear;

5. the date and time when the defendant is required to appear;
6. a note that they are being summoned in the capacity of defendant;
7. a warning that if they fail to appear, they may be brought forcibly or that, under the conditions set forth in this Act, the proceeding or the trial will be conducted and a judgement passed in their absence (Article 167, paragraph 3);
8. the official seal and the judge's signature.

(3) Where a defendant is being summoned for the first time, they shall be advised that until the final judgement is passed and the procedure for the enforcement of a misdemeanour decision ends they are duty bound to immediately inform the court of any change of address or intention to change their residence and shall be warned of the consequences of failing to do so set down in this Act (Article 145, paragraph 5). The first summons to the defendant shall be accompanied by a copy of the motion to indict and the information that they may state for the court their defence in writing.

(4) If a defendant cannot appear due to illness or another compelling impediment, they may be interrogated at the location where they are or their interrogation may be postponed.

(5) The provisions of paragraphs 1 through 4 of this Article shall accordingly apply to a defendant-legal entity and its representative.

### *Arraignment*

#### Article 129

(1) The court shall issue a warrant if a dully summoned defendant fails to appear without providing a reason therefor or if a summons could not be properly served and the circumstances clearly indicate that the defendant is avoiding being served with the summons or to respond to a properly served summons. If the court establishes the existence of conditions for the conduct of proceedings and the passing of a judgment without the defendant having to be interrogated, the warrant need not be issued.

(2) The warrant shall be enforced by the police.

(3) The warrant shall be issued in writing and shall include the following information: the full name of the defendant to be arraigned as well as other known and necessary information, the misdemeanour the defendant is charged with together with the indication of the relevant misdemeanour provisions, the reason for ordering the defendant's arraignment, the official seal and signature of the judge issuing the warrant.

(4) The person entrusted with enforcing the warrant shall serve the warrant on the defendant and tell them to accompany them. If the defendant refuses to do so, they will be brought forcibly.

(5) As a rule, a warrant shall not be issued against persons serving in the military, or members of the police or judiciary police. Instead, their commands or institutions shall be requested to arraign them. Where necessary in view of specific circumstances, the said persons shall be arraigned in accordance with general arraignment regulations (paragraphs 1 through 4 of this Article).

(6) The provisions of paragraphs 1 through 5 shall apply *mutatis mutandis* to the representative of the defendant-legal entity.

### 3. PRECAUTIONARY MEASURES AND BAIL

#### *Purpose, types and principles of precautionary measure application*

#### Article 130

(1) In proceedings for statutory misdemeanours, after the filing of the motion to indict, the court may *ex officio* or on the motion of the prosecutor issue a reasoned decision imposing one or more precautionary measures on the defendant where this is necessary for securing the defendant's attendance at proceedings, preventing the defendant to commit other misdemeanours or to prevent the presentation of evidence or make its presentation more difficult.

(2) Precautionary measures include:

1. prohibition to leave one's place of residence without court permission;
2. prohibition to visit a particular location or area;
3. prohibition to approach a particular person and prohibition to establish or maintain contact with a particular person;
4. prohibition to engage in a particular business activity;
5. temporary seizure of a travel or other document required for crossing the state border accompanied by a prohibition;
6. temporary seizure of a driver's license for operating a vehicle or a licence for operating a vessel, aircraft or another means of transportation.

(3) Precautionary measures may limit neither the defendant's right to their own lodgings nor their right to maintain unobstructed contacts with other members of the household, their spouse, common-law spouse, or former spouse, or the children of either of them, their parents, adoptee, adopter, and the person they have children with, their same-sex partner with whom they are living in a life union, and former same-sex partner with whom they used to live in a life union, unless the proceedings are conducted for a misdemeanour related to domestic violence.

(4) Precautionary measures may be imposed for the duration of entire misdemeanour proceedings.

(5) Precautionary measures may last for as long as they are needed but shall not extend beyond the date the misdemeanour decision becomes final. Every two months from the date the previous decision imposing a precautionary measure becomes final the court shall re-ascertain of its own motion whether a particular precautionary measure is still needed and shall decide to either further apply it or, if it is no longer necessary, revoke it. If it is no longer needed or if the statutory conditions for its application are not longer met, a precautionary measure may be revoked even before the expiry of the two-month deadline.

(6) Where the commission of a statutory misdemeanour is probable, the police or state administration inspection authorities may order the temporary imposition for not more than eight days of one or more of the precautionary measures referred to in paragraph 2 of this Article on anyone suspected on reasonable grounds of having committed a misdemeanour.

(7) If in the case referred to in paragraph 6 of this Article the police or state administration inspection authorities fail to file within 8 days from the date of imposition of a precautionary measure a motion to indict accompanied by a motion to the court requesting an extension of the precautionary measure or if following the filing of such request, the court fails to decide on the precautionary measure within the following 3 days, the imposed precautionary measure shall cease to apply.

(8) The decision dismissing the motion for the imposition or extension of a precautionary measure and the decision revoking the imposed precautionary measure shall not be subject to appeal. The decision imposing or extending a precautionary measure may be appealed by the defendant. The appeal shall not stay the enforcement of the decision.

(9) If before the start or in the course of proceedings the defendant is imposed a precautionary measure the content and purpose of which correspond to the protective measure imposed on the defendant by the misdemeanour decision, the duration of the precautionary measure shall be credited towards the duration of the imposed protective measure.

## *Imposition of precautionary measures*

### Article 131

- (1) The decision imposing the precautionary measure of prohibition to leave one's place of residence without court permission shall specify the location at which the defendant is to reside for the duration of the precautionary measure and the limits within which they may move. The measure of prohibition to leave one's place of residence may likewise apply only to going abroad.
- (2) The decision imposing the precautionary measure of prohibition to visit a particular location or area shall specify the location or area the defendant may not approach and the perimeter within which they may not approach them.
- (3) The decision imposing the precautionary measure of prohibition to approach a particular person or prohibition to establish or maintain contact with a particular person shall specify the perimeter within which the defendant may not approach a particular person and the person with which it is prohibited to establish or maintain direct or indirect contact.
- (4) The decision imposing the precautionary measure of prohibition to engage in a particular business activity shall specify in detail the type and object of the business activity in question.
- (5) The decision imposing the precautionary measure of temporary seizure of a travel or other document required for crossing the state border shall specify the defendant's personal details, the name of the authority that issued the document in question, the number and date of issue, and the prohibition against leaving the Republic of Croatia. If the defendant has no other identity document, they may prove their identity by means of the written decision on the seizure of the document.
- (6) The decision imposing the precautionary measure of temporary seizure of a driver's licence for operating a motor vehicle, vessel, aircraft or another means of transportation shall specify information concerning the licence in question (personal details, name of authority that issued the licence, number, date, type of vehicle or another means of transportation and the like).

## *Enforcement of precautionary measures*

### Article 132

- (1) The decision imposing a precautionary measure shall be served on the defendant and delivered to the body enforcing the precautionary measure.
- (2) Precautionary measures set out in Article 130, paragraph 2, of this Act shall be enforced by the police, with the exception of the measure referred to in Article 130, paragraph 2, point 4, which shall be enforced by the state administration body responsible for exercising supervision over the business activity in question.
- (3) The court may at any time request a precautionary measure enforcement check and a report from the police or another body enforcing the precautionary measure in question. The body enforcing a precautionary measure shall carry out the requested checks without delay and immediately inform the court thereof.
- (4) The body enforcing a particular precautionary measure shall immediately inform the court if the defendant violates the prohibition or fails to comply with the obligation imposed by a precautionary measure.
- (5) In case of the defendant's full or partial non-compliance with the imposed precautionary measure, the court may, on the basis of the report received, fine the defendant in an amount of up to HRK 10,000.00. A fine thus imposed shall be without prejudice to the misdemeanour



sanction possibly imposed for the committed misdemeanour. The decision imposing punishment may be appealed by the defendant.

(6) A person other than the defendant may be prohibited by a special court decision from engaging in activities undermining the precautionary measures imposed upon the defendant. Where such person acts in violation of the said decision, they may, by a decision, be imposed a fine of up to HRK 10,000.00.

(7) In the case of repeated violations of an imposed precautionary measure or the prohibition against engaging in the activities referred to in paragraph 6 of this Article, the court may impose a fine of up to HRK 20,000.00.

### *Bail*

#### Article 133

(1) The court may decide that a defendant on whom detention is to be or has already been imposed for fear they might escape may remain at liberty or be released if the defendant themselves or someone else on their behalf posts bail guaranteeing that until the end of misdemeanour proceedings the defendant will not flee and if the defendant themselves promises and states for the record that they will not go into hiding or leave their place of residence without permission.

(2) Bail shall always be set at an amount corresponding to the severity of the misdemeanour in question, pecuniary advantage obtained by the misdemeanour in question, expected costs of the proceeding, defendant's personal and family circumstances, and the financial condition of the defendant or the person posting bail for them. Besides in cash, bail may be posted in the form of securities, valuables or other movables easily convertible into cash.

(3) Posted bail shall be retained until the proceedings are ended by a final decision, unless this Act provides otherwise or if the statutory conditions for earlier termination of bail are not met.

(4) The court shall issue a decision:

1. granting or denying bail under paragraph 1 of this Article;
2. establishing the existence of reasons for bail termination under paragraph 3 of this Article and returning bail to the person that posted bail;
3. establishing that the defendant has fled and stating that posted bail is to be paid into the state budget and in the case of proceedings already ended by a decision finding the defendant guilty and sentencing them, stating that the fine, costs of the proceeding, damage caused by the misdemeanour, or damages awarded to the injured party be paid out of the amount of posted bail, the remainder of the bail amount being paid into the state budget.

(5) If misdemeanour proceedings end by a final decision and the defendant is sentenced to imprisonment, the court shall, after the defendant starts serving their prison sentence, decide that bail be returned to the defendant or the person that posted bail for them. If bail was posted by the defendant themselves, any pecuniary obligations of the defendant under the misdemeanour decision shall first be paid out of the bail amount. The court shall proceed likewise in the case of the defendant being sentenced to a fine or in respect of penalties imposed on the defendant in the course of proceedings by a special decision.

(6) The decision referred to in paragraph 4, points 1 and 2, of this Article shall not be subject to appeal.

(7) If a defendant entitled to have their bail, fails to apply for the return of money or other items within two years from acquiring this right, they shall lose this right. In such cases any hypothec shall be terminated and expunged by the court. Where a third party wants to take over bail, it must be granted a special power-of-attorney by the person that posted bail.

#### 4. ARREST AND DETENTION

##### *Arrest*

##### Article 134

(1) The police shall be authorised to arrest a person caught in the act of committing a statutory misdemeanour provided there are reasons for their detention as set out in Article 135 of this Act.

(2) After the arrest, the police shall:

1. immediately inform the arrested person of the reasons for their arrest;
2. upon the arrested person's request, inform their family of the arrest within 12 hours from their arrest. Parents or guardians of juvenile arrested persons shall be informed of the arrest regardless of the arrested person's wishes;
3. inform of the arrest the competent welfare centre where it is necessary to take measures for the purpose of placing children and other family members of the arrested person for whom the arrested person is providing for into care, and in the case of proceedings in cases involving domestic violence it shall be a duty to immediately give notice for the purpose of placing into care family members victims of domestic violence.

(3) The police shall bring the arrested person together with the motion to indict before the judge or shall release them as soon as there is no more need for them to be deprived of liberty and in any case no later than 12 hours from the arrest. The police shall ask the arrested person for their personal details and any other necessary information. If the said time limit for the arrest expires outside court business hours or hours the court is on duty, the arrested person shall be brought in by the time the court closes its doors. Where this is not possible due to the circumstances of the arrest or other important reasons, the police shall bring the arrested person, together with a written substantiated explanation, before the judge as soon as the court opens for normal business or for duty the next day. In any case, detention shall not exceed 24 hours.

(4) After the arrested person is brought under paragraph 3 of this Article before them, the judge shall immediately question the arrested person as to the allegations contained in the motion to indict and upon motion of the police or on their own motion issue a reasoned decision on the arrested person's detention or release.

##### *Detention*

##### Article 135

(1) If a motion to indict is filed against a person for a statutory misdemeanour, such as a public-order misdemeanour, a domestic violence-related misdemeanour, or a misdemeanour punishable by imprisonment or a fine in excess of HRK 10,000.00, the court may, after having questioned the defendant and established that there are no grounds for dismissing the motion to indict as set out in Article 161 of this Act, on its own motion or upon motion of the prosecutor decide that the person in question be detained if:

1. such circumstances as point to the risk of their fleeing exist (they are in hiding or the like);
2. there is a risk that they might destroy, hide, alter, or falsify evidence or traces of relevance to misdemeanour proceedings or that they might obstruct misdemeanour proceedings by exerting influence on witnesses or participants;
3. special circumstances justify concern that they might repeat the same type of misdemeanour.



- (2) Detention imposed pursuant to paragraph 1 of this Article may last for as long as reasons for which it was imposed exist but not longer than fifteen days, including the time of arrest. Detention of a juvenile may last twenty-four hours from the moment the court imposes it.
- (3) After a non-final judgement is passed, the defendant may be further detained or imposed detention only if they have been sentenced to imprisonment or juvenile imprisonment and special circumstances justify concern that they might commit the same type of misdemeanour.
- (4) Detention under paragraph 3 of this Article may last fifteen days but no longer than the imposed sentence and the defendant may, upon request, start serving the imposed sentence even before the judgement becomes final.
- (5) If at the time the judgement becomes final the defendant is in detention, they shall remain in detention until they are sent to serve their sentence but no longer than the expiration of the imposed sentence.
- (6) Detention under paragraphs 1 and 3 of this Article shall be imposed or extended by written reasoned decision immediately served on the detained defendant. The time of service of the decision shall be recorded in the case file and confirmed by the defendant's signature.
- (7) The decision imposing or extending detention shall be subject to appeal by the defendant within 48 hours. The appeal shall not stay the enforcement of the decision.
- (8) Whenever detention is imposed, the court shall proceed especially urgently and shall pay attention *ex officio* to whether the reasons and statutory conditions for further detention have ceased to exist or be met, and if they have, shall immediately release the defendant from detention.
- (9) Upon imposition of detention on the defendant, the court shall proceed as set out in Article 134, paragraph 2, points 2 and 3, of this Act.
- (10) The decision rejecting the motion for detention or extension of detention and the decision releasing the defendant shall not be subject to appeal.
- (11) The total duration of detention in misdemeanour proceedings cannot be longer than 15 days before the passing of a non-final judgement and a further 15 days at most after the passing of a non-final judgement under paragraph 3 of this Article, except in cases referred to in paragraph 12 of this Article and Article 136 of this Act.
- (12) Whenever the High Misdemeanour Court sets aside a non-final judgment and remands a case, it shall assess whether grounds for detention of the defendant referred to in paragraph 3 of this Article still exist and may extend detention for no more than fifteen days. Unless the person in question is the person referred to in Article 136, paragraph 1, of this Act, such detention may be imposed only once for the duration of proceedings and its duration shall not be limited under paragraph 11 of this Article. With respect to the person referred to in Article 136, paragraph 1, of this Act, such detention may last for no more than a total of 30 days beyond the time limit referred to in paragraph 11 of this Article.

## 5. MEASURES IN SPECIAL CASES

### *Detention or bail in special cases*

#### Article 136

- (1) Where a defendant who is not domiciled or resident in the Republic of Croatia is sentenced by a non-final judgment and the statutory conditions for imposing detention on them or extending their detention do not exist (Article 135, paragraph 3), the court shall offer them the possibility to post bail in an amount equal to the amount of the imposed fine, assessed costs of the proceeding and damages they are obliged to reimburse. Where the defendant is sentenced to imprisonment, the part of the bail amount ensuring the enforcement

of the prison sentence shall be set in proportion to the severity of the imposed sentence, also taking into account time spent in detention.

(2) Where the defendant does not post bail under paragraph 1 of this Article, the court shall, irrespective of the conditions set forth in Article 135, paragraph 3, of this Act, extend or impose their detention which may last until the end of the imposed prison term or for the duration of the substitute prison term that would be imposed if the fine were not paid. The defendant may appeal against this decision within forty-eight hours. Such appeal does not stay the execution of the decision.

(3) Where the defendant posts bail under paragraph 1 of this Article, such bail shall be decided on by applying *mutatis mutandis* the provision of Article 133 of this Act.

(4) When posting bail under paragraph 1 of this Article, the defendant shall deliver to the court a power of attorney naming the person chosen and authorised by the defendant to receive documents and all court decisions in the further course of proceedings if the defendant leaves the Republic of Croatia before the misdemeanour decision becomes final and enforceable. Where they fail to do so, the court shall be authorised to make service by posting the relevant communication on the court notice board.

*Special police measures for directly preventing a perpetrator of a misdemeanour who is under the influence of an intoxicant from continuing to commit a misdemeanour*

#### Article 137

(1) Where a person is caught in the act of committing a misdemeanour under the influence of an intoxicant and particular circumstances give reason to believe that such person will continue committing the misdemeanour in question, the police may order, for the purpose of directly preventing the continued commission of the misdemeanour, the imposition of the following measures:

1. confinement in a special room until intoxication wears off, the said period of confinement not exceeding 12 hours;
2. moving of a motor vehicle to a particular location until intoxication wears off, i.e., for no longer than twelve hours. The police shall inform as soon as possible and in any event no later than by the expiry of the said measure the person on whom this measure has been imposed and, where this person is not the owner of the vehicle, the owner, of the location to which the vehicle has been moved. Upon expiry of the measure taken, the driver or owner may take over the vehicle. Where the police deems that this does not jeopardise the achievement of the purpose of the measure, it may hand over the vehicle to its owner or whoever the owner has authorised therefor even before the expiry of the time period for which the measure has been imposed. The costs of moving and safekeeping the vehicle shall be borne by the driver.

(2) The minister responsible for internal affairs shall adopt an ordinance laying down in detail the manner in which the measure referred to in paragraph 1, point 2, of this Article is to be implemented.

(3) In case of unfounded or illegal imposition of the measure referred to in paragraph 1 of this Article, the person subject to such measure shall be entitled to compensation.

### Eighteenth Title (XVIII) COSTS OF A MISDEMEANOUR PROCEEDING

*Structure of the costs of a proceeding*

#### Article 138

(1) The costs of a misdemeanour proceeding are expenditures related to a misdemeanour proceeding incurred from the start or even before the start of such proceeding to its conclusion.

(2) Costs of a misdemeanour proceeding shall include:

1. the costs of the prosecutor referred to in Article 109, paragraph 1, points 2 and 3, of this Act incurred in the process of determining a misdemeanour by technical means or as a result of carrying out the necessary analyses and providing expert evaluations;
2. all court costs paid in advance by the court itself in the course of a proceeding (costs of witnesses, expert witnesses, interpreters, other experts, inspections, arraignment of the defendant and other persons, travel expenses and fees payable to official persons);
3. lump sum payable to the court;
4. costs of medical treatment of a defendant not entitled to health care during their detention or time spent in a health institution pursuant to a court decision;
5. defendant's travel expenses;
6. necessary expenditures incurred by the injured party and injured party-prosecutor and their statutory representatives and their attorneys-in-fact;
7. necessary expenditures and defence counsel's fees.

(3) The lump sum shall be fixed within the limits specified by a special regulation, taking into account the complexity and duration of a proceeding and the defendant's financial condition.

(4) The court shall charge all the costs of a proceeding that were paid by it in advance from the defendant or whoever is required to reimburse such costs under the provisions of this Act.

(5) The court shall keep a special schedule of expenditures incurred under paragraph 2, points 1, 2 and 4, of this Act. Anyone requesting cost reimbursement shall provide the court with a bill of costs stating the necessary information and providing proof of the cost incurred.

(6) The costs of translating into the minority languages of the Republic of Croatia that are incurred as a result of applying the provisions of the Constitution and the statute on the right of minorities in the Republic of Croatia to use their native tongue shall not be payable by the persons who under this Act are required to reimburse the costs of a proceeding.

(7) The minister responsible for the judiciary shall adopt an ordinance laying down in more detail the reimbursement of the costs of a misdemeanour proceeding.

#### *Persons liable to pay costs*

#### Article 139

(1) The defendant, injured party, injured party-prosecutor, counsel, statutory representative, attorney-in-fact, representative of the defendant-legal entity, witness, expert witness, interpreter and expert shall, irrespective of the outcome of proceedings, bear the costs of their arraignment, postponement of a hearing or adjournment of the trial, as well as any other costs of a proceeding incurred through their own fault.

(2) Unless a person's liability to pay the costs of a proceeding is to be determined in the judgment, a special decision shall be issued on the costs referred to in paragraph 1 of this Article.

(3) If the court finds a defendant guilty, it shall deliver a judgment stating that the defendant is required to reimburse the costs of the proceeding, unless this Act provides otherwise.

(4) If one and the same judgment declares a defendant guilty for certain misdemeanours, while for others the proceeding is terminated, the defendant shall not be required to reimburse such costs of the proceeding as relate to misdemeanours for which the proceeding has been terminated provided such costs can be separated out from total costs.

(5) In its judgement declaring a number of defendants guilty the court shall specify the part of

costs that each defendant is to bear. Where this is not possible, it shall decide that all the defendants are to bear the costs jointly and severally. The payment of the lump sum shall be determined separately for each defendant.

(6) In its decision on the costs of a proceeding the court may exempt the defendant in full or in part from their obligation to reimburse the costs of the proceeding referred to in Article 138, paragraph 2, points 1 through 4, of this Act if payment of such costs would jeopardise their own subsistence or the maintenance of persons the defendant is required to provide for.

#### *Deciding on the costs of a proceeding*

#### Article 140

(1) Any judgement or decision terminating a misdemeanour proceeding shall specify who is to bear the costs of the proceeding, the amount of such costs, to whom and by when they are to be paid.

(2) Where a misdemeanour proceeding is terminated, the decision thereon shall state that, unless this Act provides otherwise, the costs of a proceeding referred to in Article 138, paragraph 2, points 2 through 4, of this Act are to be borne by the court and that the costs referred to in Article 138, paragraph 2, points 5 and 7, of this Act are to be borne by the court only if a proceeding is terminated as a result of the fact that the act committed by the defendant is not a misdemeanour or where there is no evidence that the defendant committed a misdemeanour.

(3) Where a proceeding is conducted and concluded at the request of the injured party-prosecutor, the injured party-prosecutor shall be obligated to cover the costs of the proceeding referred to in Article 138, paragraph 2, points 2 through 5, of this Act as well as any necessary expenditures and defence counsel's fee if they knowingly filed a false motion to indict.

(4) The provisions of this Act on the costs of a proceeding shall equally apply to all authorised prosecutors.

(5) Anyone entitled to reimbursement of their costs of a proceeding shall apply immediately for reimbursement. The court shall inform such person of their right to seek reimbursement of such costs. Exceptionally, if such person does not have all the information necessary for calculating such costs, the court may allow them to apply within the time limit set by the court, which in any case shall not exceed 3 months.

(6) Anyone who fails to apply for cost reimbursement within the time limit referred to in paragraph 5 of this Article shall lose the right to seek reimbursement of such costs.

(7) A defendant who acquires the right to cost reimbursement after a misdemeanour decision is delivered may exercise this right by applying for cost reimbursement within three months from the day the final misdemeanour decision is served on them.

(8) If the court does not decide in part or in full on the costs of a proceeding in a misdemeanour decision, it shall do so in a special decision.

#### Nineteenth Title (XIX)

#### CIVIL CLAIM BROUGHT WITHIN THE FRAMEWORK OF A MISDEMEANOUR PROCEEDING

#### *Filing of claims*

#### Article 141

(1) Anyone injured by a misdemeanour (injured party) may file a civil claim against the defendant until the conclusion of first-instance proceedings. The court shall examine such claim if it contains all the facts and evidence on which it is based and if its examination would not significantly delay misdemeanour proceedings.

(2) A civil claim may relate to compensation, restitution of property, or annulment of a legal transaction.

### *Examining and deciding on the claim*

#### Article 142

(1) Where examination of a civil claim would significantly delay misdemeanour proceedings, the court shall limit itself to collecting only such information as it would be impossible or significantly harder to subsequently determine.

(2) In its judgement finding the defendant guilty the court may decide fully or partly in favour of the injured party's civil claim and in respect of the rest instruct the injured party to bring a civil action. If the information gathered within the framework of a misdemeanour proceeding does not provide a reliable basis for either a fully or a partially favourable decision, the court shall instruct the injured party to bring a civil action in respect of the entire claim. If by the end of proceedings the injured party withdraws its civil claim, the said claim may be asserted within the framework of a civil action.

(3) In its judgement dismissing a charge or acquitting the defendant of a charge and its decision terminating a misdemeanour proceeding the court shall instruct the injured party to assert its civil claim within the framework of a civil action.

#### Twentieth Title (XX)

### DECISIONS IN MISDEMEANOUR PROCEEDINGS AND THEIR TAKING

#### *Decisions in misdemeanour proceedings*

#### Article 143

(1) Decisions in misdemeanour proceedings include:

1. the judgement;
2. the misdemeanour ruling;
3. the misdemeanour warrant;
4. the decision;
5. the order.

(2) Judgements are delivered only by courts.

(3) Misdemeanour rulings are made by state administration bodies conducting misdemeanour proceedings.

(4) Misdemeanour warrants, decisions and orders are issued also by other bodies taking part in misdemeanour proceedings.

#### *Taking of decisions*

#### Article 144

(1) Decisions in misdemeanour proceedings shall, pursuant to this Act, be made by a panel, a judge, a panel chair or the person managing the conduct of a misdemeanour proceeding.



Before the institution or start of a misdemeanour proceeding misdemeanour warrants, decisions and orders relating to such proceeding shall be issued by any such authorities as have been authorised by law to do so.

(2) Panel decisions shall be made following a discussion and a vote. Decisions shall be made after the majority of panel members votes for it.

(3) The panel chair shall moderate the discussion and vote and shall vote last. They shall take care that all issues be considered in an all-embracing and in depth manner. Panel members cannot refuse to vote on issues put forward by the panel chair.

(4) The discussion and vote shall take place in camera in the presence of panel members and the recorder, of which a special record shall be made and signed by the panel chair, panel members, and recorder and be kept in the case file.

## Twenty-First Title (XXI) SERVICE OF DECISIONS, BRIEFS AND COMMUNICATIONS AND FILE EXAMINATION

### General provisions

#### Article 145

(1) Decisions, briefs and other communications shall be served:

1. by post;
2. by the delivery service of the very body that took the decision;
3. directly on the person concerned on the premises of the body that made the decision; or
4. in some other manner achieving the purpose of delivery and not prejudicing the right to defence.

(2) A summons to appear in court or other summonses may also be issued orally by the court to the person before the court and shall be accompanied by a notice of the consequences of failure to appear. A summons thus issued shall be recorded and the person summoned shall sign this record, unless such summons is recorded in the trial record. Thereupon service shall be deemed effected.

(3) The court may entrust service to a legal entity authorised under the Postal Act to provide universal postal services (service of documents in misdemeanour proceedings).

(4) The costs of service under paragraph 3 of this Article shall form part of the costs of the misdemeanour proceeding in question.

(5) If a summons or a decision cannot be served on a party or a participant in a proceeding (Article 108, paragraphs 1 and 2) because they failed to report to the court a change of address or particular circumstances point to their obviously avoiding being served, the court shall post the summons or decision, except the judgement sentencing the defendant to imprisonment or juvenile imprisonment, on the court notice board. Upon expiry of eight days after such posting, service shall be deemed to have been duly effected. It shall be proceeded likewise in the case of service of a final decision for the purpose of its enforcement.

(6) Service shall be made to:

1. the prosecutor at the address indicated in the motion to indict, i.e., the address provided to the court;
2. the defendant natural person at the address of their residence, another address provided to the court, place of work, or any other location where it is probable they will be found;
3. the defendant natural person-craftsperson and the defendant pursuing another type of sole trade at the registered office of the craft business or sole trade, address of residence, another address provided to the court, or at any other location where it is probable they will be found;

4. the defendant-legal entity and another entity equated therewith at the registered office address, address provided to the court, or any other location where it is probable that the person authorised to receive communications on its behalf will be found;
5. the participants in misdemeanour proceedings referred to Article 108, paragraph 2, points 1 through 4, of this Act, at the registered office address, address of residence, address stated in the power of attorney, address provided to the court, or at any other location where it is probable they will be found.

### *Manner of service*

#### Article 146

(1) Service shall be effected:

1. by personal delivery;
2. through an intermediary.

(2) The defendant, with the exception of legal entities, shall be personally served with:

1. the summons to appear for the first interrogation accompanied by the motion to indict;
2. the judgement and other decisions from the service of which starts to run the time limit for seeking a remedy if they have no defence counsel in the proceeding.

(3) The summons, judgement and other decisions and documents shall be served at the request of the defendant only on defence counsel or another person designated by them (attorney for service). Service on such person shall be deemed service on the defendant. A judgement sentencing the defendant to imprisonment shall always be served also on the defendant.

(4) The summons and decisions referred to in paragraph 2, points 1 and 2, of this Article shall be served on the defendant by personal delivery, i.e., by being handed directly to the defendant. If the defendant is not found at the place where service is to be effected, the server shall be informed of the day, time and place the defendant can be found and shall leave with a person specified in paragraph 7 of this Article a notice for the defendant requesting them to be present on a particular day and at a particular time at their home or their work in order to be served. If thereupon the server does not again find the defendant, they shall proceed as provided in paragraph 7 of this Article. This shall be deemed valid service of the summons or decision.

(5) If the defendant who has no defence counsel has to be served with a judgment sentencing them to imprisonment and the judgement cannot be served, the defendant may be appointed court-appointed defence counsel who will examine the case file and, where appropriate, seek a remedy.

(6) If the defendant has defence counsel, all decisions from the service of which starts to run the time limit for seeking a remedy shall be served on the defendant pursuant to the provisions of paragraph 7 of this Article. Where service is to be effected both on the defendant and defence counsel, the time limit for seeking a remedy shall start to run from whichever service is later.

(7) Any communication which under this Act need not be personally served shall also be personally served. However, if the recipient is not found at their home or work, such communication may be handed to any member of their household, at least 18 years old, who is required to receive it. If such member of the household is not found at home, such communication shall be handed to the janitor or a neighbour, provided they agree thereto. If a communication is to be served at a person's work, and the person concerned is not found there, it shall be left with the person authorised to receive mail, who is obligated to receive it, or with a co-employee, provided they agree thereto.

(8) If it is established that the person who is to be served is absent and that the persons



referred to in paragraph 7 of this Article are therefore unable to hand it to them in time, the communication shall be returned with an indication of the whereabouts of the absent person.

(9) Service to legal entities shall be effected by delivery of the document in question to the person authorised to receive documents or another employee of the legal entity.

#### *Service to prosecutors and other persons*

#### Article 147

- (1) The first summons to appear in court or for interrogation as well as any documents whereby the court requests a person to perform an act or fulfil an obligation shall be served by personal delivery (Article 146, paragraph 4) to the injured party-prosecutor, the injured party, and the persons referred to in Article 108, paragraph 2, point 4, of this Act, or their statutory representatives and attorneys-in-fact who are not lawyers. Decisions from the service of which the time limit for seeking a remedy starts to run shall be served on them likewise. If the said persons have attorneys-in-fact, service shall be effected only on their attorney-in-fact.
- (2) A state attorney may be served with decisions and other communications also by delivery to their registry office.
- (3) Summonses to appear in court and other summonses as well as any decision from the service of which runs the time limit for seeking a remedy shall be served on all prosecutors at the address they indicated in the motion to indict. If the summonses and decisions cannot be served at the address indicated in the motion to indict or at the address provided to the court, they shall be posted on the court notice board and upon expiry of eight days from their posting on the notice board service shall be deemed effective.

#### *Acknowledgement of service*

#### Article 148

- (1) Acknowledgement of effected service (service note) shall be signed by both the person served and the server. The person served shall indicate on the service note the date and time of service.
- (2) If the person served cannot write or is unable to sign their name, the server shall sign on their behalf, write down the date and time of service, and the reason why they signed on behalf of the person served.
- (3) If the person served refuses to sign the service note, the server shall note this down on the service note and write down the date and time of service. If the person served cannot write the date and time of service, this shall be done by the server who shall note this down on the service note. In such cases service shall be deemed to have been properly made.
- (4) When the person to be served or a member of their household who is at least 18 years old refuses to accept service, the server shall note down on the service note the date and time and the reason for the refusal to accept service and shall leave the communication in question at the home or on the business premises of the person to be served or, where this is not possible, post it on the front door of the home or business premises of the person to be served or leave it at the place where mail is ordinarily delivered. This shall be indicated on the service note. Thereupon service shall be deemed to have been made. In case of service at the place of commission of a misdemeanour, if the person to be served refuses to sign and confirm service of a decision or another communication, it shall be proceeded as provided in this paragraph and the decision or another communication shall be left with the person served so as to make it easily accessible to them, which shall be noted down and whereupon service shall be

deemed to have been properly made.

(5) A service note acknowledging the service of a communication on a legal entity, craftsman or another sole trader shall be signed by the person who received the communication in question.

#### *Service in special cases*

#### Article 149

(1) In addition to being served with the summons and other communications in the manner provided for in this Act, military personnel, members of the police force and members of the judicial police shall be served through their command posts or their immediate superior.

(2) Persons deprived of liberty shall be served with the summons in the courthouse or through the management body of the institution at which they are kept.

(3) Summonses and other communications for persons located abroad shall be served in accordance with international agreement or standard practice. Service may be effected also directly by post if the foreign country in question is not opposed thereto.

(4) In case the procedure prescribed by the provisions on international legal assistance in criminal matters is not applied, summonses for Croatian nationals located abroad shall be served through diplomatic or consular missions of the Republic of Croatia abroad provided the foreign country in question is not opposed to such manner of service and the recipient of the summons has consented thereto. If a summons is served at a diplomatic or consular mission itself, an authorised employee of the mission shall sign the service note as the server. If the summons is delivered by post, this shall be confirmed on the service note.

(5) Summonses and decisions for persons participating in proceedings, with the exception of the defendant, that are issued or taken until the end of the trial, can be handed to a participant in the proceedings who accepts to hand them to the person to whom they are addressed if the authority conducting the proceedings holds that their service is in this way guaranteed.

(6) Documents, with the exception of the judgement, may be sent by telegram, fax, e-mail or through the use of another means of distance communication if in view of the circumstances it may be assumed that a notification sent in such manner will be received by the person to whom it is addressed. Persons participating in proceedings may be notified of summonses, with the exception of the first summons and particular notifications, by phone.

(7) An official note shall be made in the case file of any service made or notification given in the manner set forth in paragraphs 1, 2, 5 and 6 of this Article.

#### *Examination, copying and photocopying of the case file*

#### Article 150

(1) In addition to the parties to and participants in a proceeding who after the institution of the proceeding are entitled to examine, copy and photocopy particular parts of the case file, anyone else with a legitimate interest may be allowed by the court to do the same.

(2) The court may deny in full or in part the permission referred to in paragraph 1 of this Article:

1. if this is necessary in order to protect the person of the defendant or another participant in the proceeding;

2. if the acts referred to in paragraph 1 of this Article are contrary to the interests of the defendant or the injured party's defence.

(3) Of the denial referred to in paragraph 2 of this Article the court shall make an official note

which it shall enclose in the case file.

(4) For the duration of a proceeding the permission referred to in paragraph 1 of this Article shall be given by the judge presiding over the proceeding and in their absence, by the court president. Following conclusion of the proceeding, such permission shall be given by the court president.

(5) The acts referred to in paragraph 1 of this Article shall be performed under the supervision of the court and at the expense of the person who asked to perform them.

(6) Irrespective of whether or not they are a party to a proceeding, the court shall, upon the state attorney's request, make available for examination the misdemeanour case file.

## Twenty-Second Title (XXII) ENFORCEMENT OF DECISIONS AND OTHER PROVISIONS

### 1. ENFORCEMENT OF DECISIONS

#### *General provisions*

#### Article 151

(1) Decisions are enforced by bodies responsible therefor at the request of the court or another competent authority that delivered the decision, unless the court itself enforces its decision.

(2) Judgements and decisions shall be enforced after they become final and enforceable, unless this Act provides otherwise.

(3) A judgement shall become final:

1. on the day the time limit for appeal expires if no appeal has been filed or if an appeal was filed after the expiry of this time limit, or when appeal is not allowed;
2. on the day the right to appeal is waived, or the appeal filed is withdrawn or dismissed.

(4) A judgment shall become enforceable:

1. after it becomes final;
2. upon its service on the convicted person;
3. upon expiry of the time limit for its voluntary enforcement, where so specified in the judgement; and
4. upon it having been established that there are no statutory obstacles to its enforcement.

(5) A decision shall become final when it can no longer be challenged by filing an appeal or when no appeal is allowed.

(6) Unless otherwise provided by this Act, decisions shall be enforced upon their becoming final.

(7) Orders shall be enforced immediately unless the authority that issued them determines otherwise.

(8) In case of doubt as to whether a court decision or a decision of another authority taking part in misdemeanour proceedings may or may not be enforced (a decision is declared final without the statutory conditions therefor having been met, etc.), or in the computation of the penalty, or if the final decision does not provide for the crediting of time spent under arrest, in detention or custody, or of time already served, or such crediting has not been calculated properly, the first-instance judge or the person managing the conduct of the proceeding shall decide thereon in a special decision. Unless the judge or person managing the proceeding decides otherwise, the filing of an appeal against this decision shall not stay the decision's enforcement.

(9) Any doubt as to the interpretation of a court decision or a decision of another authority taking part in misdemeanour proceedings shall be resolved in the manner set forth in

paragraph 8 of this Article by the court or another authority taking part in misdemeanour proceedings that delivered the final decision.

### *Procedure for enforcing decisions*

#### Article 152

(1) A convicted person sentenced by a final judgement to imprisonment shall be referred by decision of the misdemeanour court within the territorial jurisdiction of which the convicted person is domiciled or resident to an incarceration facility having competence in respect thereof under the Prison Sentence Enforcement Act.

(2) If the court that delivered the judgement referred to in paragraph 1 of this Article in the first instance is not competent to refer a convicted person to an incarceration facility, it shall deliver a certified copy of the judgement containing the finality clause to the court having jurisdiction under paragraph 1 of this Article.

(3) If a convicted person fails to pay in full or in part, pursuant to a final misdemeanour decision and within the specified period of time, the fine, the costs of the misdemeanour proceeding, or the confiscated pecuniary advantage, the court or another authority that in the first instance finally decided thereon shall file a written enforced collection request with the tax administration-department for enforced collection having competence over the convicted person's domicile or residence or registered office. Such written request shall be accompanied by a certified copy of the final judgement containing the finality clause. If the person convicted is a juvenile or a legal entity, it shall also be proceeded in accordance with the provision of, respectively, Article 71, paragraph 2, and Article 59, paragraph 3, of this Act. The first-instance misdemeanour authority may decide, in accordance with this paragraph, to pursue enforcement of the final misdemeanour decision itself.

(4) If the tax administration-department for enforced collection fails to collect the fine in full or in part within a period as long as a year from the receipt of the enforced collection request, it shall immediately, except where the person convicted is a legal entity or a juvenile, return the request to the authority that filed it accompanied by a notification of its failure to enforce the collection of the fine in full or in part.

(5) Upon receipt of the notification referred to in paragraph 4 of this Article, the court having jurisdiction over the convicted person's domicile or residence shall immediately issue a decision:

1. replacing the fine with imprisonment or community service at liberty in accordance with the provisions of Article 34, paragraphs 2 and 3, of this Act; and
2. referring the convicted person to serve the prison term thus imposed or perform community service at liberty in accordance with paragraph 1 of this Article.

(6) Upon receipt of the tax administration's notification pursuant to the provision of paragraph 4 of this Article, the court not having jurisdiction under paragraph 5 of this Article and the state administration body shall immediately deliver the decision on the imposed fine containing the finality clause and the notification received from the tax administration to the court having jurisdiction under paragraph 5 of this Article for further action pursuant to this provision.

(7) The term of imprisonment referred to in paragraphs 1 and 5 of this Article shall be served in the manner and following a course provided for in the Prison Sentence Enforcement Act.

(8) If a convicted person fails to pay the fine within a specified period of time, it may be prescribed by law that they be denied the issue or renewal on the basis of official records of a particular licence, registration or certificate pertaining to the administrative field in which the misdemeanour for which the fine has not been paid was committed. Such denial shall not

apply with respect to official records relating to personal (status) rights, freedom of movement, exercise of employment, pension and social insurance rights or to licences, registrations or certificates the denied issue of which would endanger citizens' health or safety. Such denial may last for as long as the fine is not paid and in any case until the statute of limitations for fine enforcement expires or until the convicted person starts to serve their prison sentence or perform community service at liberty pursuant to paragraph 5 of this Article.

(9) The competence to enforce and the manner of enforcing community service at liberty, protective measures, educational measures, juvenile imprisonment and protective supervision accompanying a suspended sentence shall be regulated by a special statute.

(10) Disposition of items seized pursuant to a final judgement delivered in misdemeanour proceedings shall be regulated by an ordinance adopted by the minister responsible for judicial affairs with the consent of the minister responsible for financial affairs.

(11) Following a convicted person's death the proceeding for the enforcement of misdemeanour sanctions shall not be instituted. Where such proceeding is pending, it shall be terminated by decision of the court or another authority upon whose request it was instituted.

(12) An appeal against a decision adopted pursuant to Article 34, paragraph 2, third sentence, of this Act shall not stay the decision's enforcement.

## 2. OTHER PROVISIONS

### *Misdemeanour records*

#### Article 153

(1) Misdemeanour records shall be set up and kept by the ministry responsible for judicial affairs pursuant to an ordinance adopted by the minister responsible for judicial affairs.

(2) Regulations on the records of imposed educational measures shall be adopted by the minister responsible for welfare affairs.

(3) The records referred to in paragraphs 1 and 2 of this Article shall be kept in electronic form.

### *Legal assistance*

#### Article 154

(1) The courts shall provide each other with necessary legal assistance. All state authorities shall likewise provide such assistance to the courts and other authorities taking part in misdemeanour proceedings.

(2) The courts shall, within the framework of their competence, provide legal assistance to other state authorities.

### *Death of defendant and dissolution of defendant-legal entity*

#### Article 155

(1) If it is established before the start of misdemeanour proceedings that the defendant has died or defendant-legal entity has been dissolved (Article 59, paragraph 2, first sentence), a decision rejecting the motion to indict shall be delivered. If the fact of death or dissolution is established after the start of a proceeding, a decision terminating the misdemeanour

proceeding shall be delivered.

(2) If a proceeding can be conducted against a legal entity's legal successor, the decision referred to in paragraph 1 of this Article shall not be delivered. Instead, proceedings shall be suspended and continued after the authorised prosecutor accordingly amends the motion to indict. If the decision referred to in paragraph 1 has already been delivered, it shall be abrogated after the prosecutor amends the motion to indict, whereupon the proceeding shall be continued.

(3) If after a misdemeanour warrant is issued but before it becomes final or is abrogated, it is established that the defendant has died or defendant-legal entity has been dissolved, a decision abrogating the misdemeanour warrant shall be delivered.

(4) The decision referred to in paragraphs 1 and 2 of this Article shall be delivered by the court at which the case file is located at the time the defendant's death or dissolution of the legal entity is established.

### *Immunity*

#### Article 156

(1) Unless this Act provides otherwise, no one who commits a misdemeanour in the Republic of Croatia shall be immune from misdemeanour prosecution.

(2) The relevant rules of international law shall apply to persons who under international law enjoy immunity from misdemeanour prosecution in the Republic of Croatia.

(3) In case of doubt as to whether a person enjoys immunity under the rules of international law, the court shall ask the ministry responsible for foreign affairs to provide an explanation.

### *Institution and start of a misdemeanour proceeding*

#### Article 157

(1) Unless otherwise provided in this Act, a misdemeanour proceeding shall be instituted:

1. upon the issue of a misdemeanour warrant;
2. upon the filing of a motion to indict by the authorised prosecutor.

(2) A misdemeanour proceeding shall start:

1. with the start of the trial;
2. in a proceeding without trial, with the interrogation of the defendant or the taking of other evidence.

(3) If an authority competent to conduct misdemeanour proceedings conducts a misdemeanour proceeding as of right, such proceeding shall be instituted when the decision on the conduct of the misdemeanour proceeding is made.

(4) The decision on the conduct of misdemeanour proceedings shall be served on the defendant together with the summons to appear in court or for an interrogation. Such decision shall not be subject to appeal.

(5) The decision referred to in paragraph 3 of this Article shall include information on the defendant and a short factual and statutory description of the misdemeanour in question. Where necessary on account of the facts established within the framework of a proceeding, the authority taking part in a misdemeanour proceeding shall amend or extend the decision to include in it a new misdemeanour or with respect to the factual and statutory description of the misdemeanour for which a proceeding is already underway.



Twenty-third Title (XXIII)  
COURSE OF PROCEEDINGS UNTIL THE DELIVERY OF JUDGEMENT

1. INQUIRIES AND URGENT TAKING OF EVIDENCE

*Inquiries into misdemeanours and collection of evidence in carrying out supervision*

Article 158

(1) When acting within their area of competence with respect to the carrying out of supervision or where there are grounds for suspicion that a misdemeanour has been committed, authorised persons within state administration bodies shall take the necessary steps in order to:

1. establish whether a misdemeanour was committed and who its perpetrator is;
2. prevent the perpetrator or a participant from going into hiding or fleeing;
3. discover and secure any traces of a misdemeanour and items that might serve to establish facts;
4. gather all information that might be of use for the successful conduct of misdemeanour proceedings.

(2) State administration bodies may seek information from the public and take other measures as provided for in the rules regulating their conduct, unless such measures are contrary to this Act. In case of risk to the public order or danger to the safety of persons and property, state administration bodies may seek assistance from the police with respect to the taking of actions referred to in paragraph 1 of this Article.

(3) For the purpose of performing the tasks as referred to in paragraph 1 of this Article, the police may:

1. seek any necessary information from the public;
2. carry out the necessary inspections of vehicles, persons and luggage;
3. for the shortest time period necessary and in any case for no more than six hours oversee and limit the movement of specific persons within a specific area;
4. take other steps aimed at detecting persons and items (observation, tailing, blockade, raid, ambush, trap, etc.);
5. take the necessary steps aimed at identifying persons and things;
6. search in the presence of the responsible person particular facilities and premises of the state authorities, legal entities, as well as other business premises, and inspect particular documents or data in their possession;
7. take other necessary steps and actions.

(4) Unless this Act or a special regulation provides for the drawing up of a record, an official note shall be made of the facts and circumstances established by means of taking any of the actions referred to in paragraphs 1 through 3 of this Article, that are of interest to the misdemeanour proceeding.

(5) Where an authorised official person of a state administration body observes firsthand, within the framework of their competence to carry out supervision, the act of commission of a misdemeanour or establishes this firsthand by an appropriate technical device and makes an official note thereon or a technical recording thereof, such official note and technical recording shall constitute evidence in misdemeanour proceedings. Records drawn up by supervisory bodies in carrying out supervision under special regulations may also be used in evidence in misdemeanour proceedings, provided such records were made in accordance with the provisions of the General Administrative Procedure Act or special rules regulating supervision.

(6) In collecting information an authorised person within a state administration body may, when exercising their supervisory competence, interrogate a person in their capacity as suspect in accordance with the provisions of this Act on the interrogation of a defendant in misdemeanour proceedings. In doing so, they must inform the person they will interrogate of their right to counsel, who may be present during their interrogation. If the defendant does not retain counsel immediately or does not decide to testify in the absence of counsel, the state administration body concerned shall suspend the interrogation for up to two hours so that the suspect can retain counsel of their choosing or from the list of lawyers on duty.

(7) When exercising their supervisory competence, an authorised person within a state administration body may interrogate a person also in their capacity as witness in accordance with the provisions of this Act on the interrogation of witnesses in misdemeanour proceedings.

(8) Records of interrogations of suspects and witnesses under, respectively, paragraphs 6 and 7 of this Act may be used in evidence in misdemeanour proceedings.

### *Urgent taking of evidence*

#### Article 159

(1) Where there are grounds to suspect that a misdemeanour has been committed, authorised persons within state administration bodies, when proceeding within the framework of their supervisory competence, may request even before a misdemeanour proceeding is instituted under the provisions of this Act that the court order:

1. a search of a dwelling and other premises, vehicles, luggage and persons;
2. a temporary seizure of items;
3. a temporary suspension of a financial transaction;
4. identification;
5. inspection;
6. necessary expert examinations.

(2) Where there is danger of delay, the competent state administration bodies may order themselves the taking of actions referred to in paragraph 1 of this Article, with the exception of searches of dwellings and identification. A record shall be made of any actions taken and a receipt issued for the objects seized, which record and receipt shall be enclosed within the motion to indict.

(3) The court may entrust a state administration body with the taking of actions referred to in paragraph 1 of this Article.

(4) Records of actions referred to in paragraphs 1 and 2 of this Act shall constitute evidence in misdemeanour proceedings.

(5) The actions referred to in paragraph 1 of this Article shall be taken by applying *mutatis mutandis* the provisions of the Criminal Procedure Act relating to such actions and their taking before the start of criminal proceedings, unless the provisions of this Article provide otherwise.

(6) Anyone obstructing the taking of actions referred to in paragraph 1 of this Article or failing to hand over an object searched for during an inspection may be punished by a fine of up to HRK 5,000.00.

(7) If in taking an action referred to in paragraph 1 or 2 of this Article it is necessary to apply coercion or if physical resistance to the taking of such action is expected, and the action is to be taken by a state administration body other than the police, such body shall be assisted in taking the action by the police.

## 2. INSTITUTION OF A MISDEMEANOUR PROCEEDING AND PREPARATIONS FOR THE TRIAL

### *Contents of a motion to indict*

#### Article 160

(1) Unless this Act provides otherwise, a misdemeanour proceeding may be conducted only on the basis of a motion to indict filed by an authorised prosecutor.

(2) A motion to indict shall contain the following:

1. details on the prosecutor, namely: name of the state authority or legal entity or the name of the prosecutor-natural person and the prosecutor's address;

2. in the case of a perpetrator of a misdemeanour who is a natural person, their name and personal details (Article 171, paragraph 1), whether or not they are in detention, and if yes, since when; if they have been released, the period of time they were deprived of liberty, whether any precautionary measure is being applied, and if yes, since when;

3. in the case of a perpetrator of a misdemeanour who is a natural person-craftsperson or another sole trader, in addition to the information referred to in paragraph 2, point 2, of this Article, the exact name of the craft business or business activity conducted, registered office and place of registration of the craft business or the business of the sole traders;

4. in the case of a perpetrator of a misdemeanour that is a legal entity or another entity equated therewith, its exact name, registered office and registration number, name of its representative, their date of birth, residence, nationality, state that issued their passport and their passport number, if they are a foreigner, and whether or not any precautionary measure is being applied, and if yes, since when;

5. factual description of the misdemeanour act from which the statutory elements of the misdemeanour result;

6. time and place of commission of the misdemeanour in question, instrument by which the misdemeanour was committed, and other circumstances essential for precisely defining the misdemeanour;

7. statutory name of the misdemeanour and the regulation defining it;

8. evidence proposed to be taken at the trial, names of witnesses and other persons whose examination is proposed, documents to be read and objects serving to establish facts, including a brief statement of the grounds for the motion to indict. In the motion to indict the prosecutor may propose the type, severity and duration of the sanction. Such proposal shall not be binding on the court.

(3) One motion to indict may include a number of misdemeanours or defendants only if under the provisions of Article 99 of this Act joint proceedings may be conducted and a single misdemeanour decision delivered.

(4) The motion to indict shall be delivered to the court having jurisdiction in as many copies as there are defendants plus one copy for the court.

### *Examination of the motion to indict*

#### Article 161

(1) The judge who has been assigned the case shall first examine whether they have jurisdiction. If they establish they are without jurisdiction, they shall issue a decision declaring themselves without jurisdiction and upon finality of the said decision, refer the case concerned to the court having jurisdiction.

(2) Where the court does not declare itself without jurisdiction, it shall examine whether the motion to indict is drawn up in accordance with Article 160 of this Act and whether there are any circumstances that make misdemeanour proceedings impossible to conduct.

(3) If the motion to indict does not contain all the information referred to in Article 160, paragraph 2, of this Act because the prosecutor was unable to obtain all such information, and the missing information is not such as to prevent the start of proceedings, proceedings shall be continued and the prosecutor or the court shall obtain *ex officio* the missing information in the course of proceedings.

(4) If the motion to indict does not contain all the information referred to in Article 160, paragraph 2, of this Act, which makes it impossible to conduct the proceedings, or if the said information is incorrect, the court shall invite the prosecutor to supplement or amend the motion to indict within eight days. If the prosecutor fails to do so, the court shall decide to reject the motion to indict.

(5) In examining the motion to indict, the court shall deliver a judgment dismissing the charges if:

1. the filer of the motion to indict is not the authorised prosecutor;
2. circumstances exist that exclude misdemeanour prosecution;
3. the prosecutor withdraws the motion to indict.

(6) If the court, in examining the motion to indict, finds that the act with which the defendant is charged is not a misdemeanour, it shall immediately deliver a judgement acquitting the defendant of the charge.

(7) If the court holds that conditions for its issue under this Act exist, it shall immediately issue a misdemeanour warrant.

#### *Preparations for trial*

##### Article 162

(1) Unless it has delivered any of the decisions referred to in Article 161 of this Act, the court shall issue an order setting the date, time and place of the trial and shall summon all persons whose presence is necessary at the trial.

(2) The following persons shall be summoned to attend trial:

1. the prosecutor and their statutory representative or attorney-in-fact;
2. the defendant and their defence counsel;
3. the injured party and their statutory representative or attorney-in-fact;
4. witnesses and expert witnesses which the court deems necessary to summon;
5. other persons whose presence at the trial is necessary.

#### *Summoning*

##### Article 163

Service of a written summons shall be made at the address of the person summoned, in accordance with the provisions of Article 145, paragraph 6, points 1 through 5, of this Act.

#### *Summoning to attend trial*

##### Article 164

- (1) The contents of a summons to the defendant to attend trial or answer questions shall be as set forth in the provision of Article 128 of this Act. Where the defendant does not need to be present, the summons shall advise them of the possibility of raising their defence in writing.
- (2) In order to have the time to prepare their defence and unless they request a shorter period, the defendant shall be served with the summons at least three days before the scheduled trial or examination date.
- (3) The defendant shall be summoned in writing. Such summons shall state the name of the court, the name of the prosecutor, the date, time and place the defendant is to appear before the court, the misdemeanour case in which the defendant is summoned, and the official stamp of the court and signature of the judge.
- (4) Participants in a proceeding (Article 108, paragraph 2, points 1 through 4), witnesses, expert witnesses and interpreters shall be summoned in writing. Such summons shall state their name, the name of the court, the date, time and place they are to appear before the court, the capacity in which they are summoned, the misdemeanour case in which they are summoned, and the official stamp of the court and signature of the judge. Witnesses, expert witnesses and interpreters shall also be warned that in case they fail to respond to the summons and justify their absence, their bringing before the court may be ordered.

### 3. TRIAL

#### *General provisions*

#### Article 165

- (1) The trial shall begin with the opening trial session taking place at the scheduled time and place. Before the session opens, the court shall check whether the conditions for the holding of the trial are fulfilled. After the session opens, the court shall announce the case.
- (2) Unless this Act provides otherwise, the trial shall be public.
- (3) The duty of the judge is to make sure all aspects of the case are addressed, prevent any protracting of proceedings, and see to it that order in the courtroom is preserved and the dignity of the court maintained.
- (4) The judge shall manage the trial, question the defendant, witnesses and expert witnesses, and give the floor to the parties to and participants in the proceedings.
- (5) In a trial the defendant shall be questioned first, whereupon evidence shall be taken in the order determined by the judge. When there is more than one defendant, they shall be examined separately, one by one.
- (6) There shall be no photographic or electronic recording in the courthouse. By way of exception, the court president and the president of the High Misdemeanour Court of the Republic of Croatia may decide to allow at a particular hearing, respectively, photographic recording and electronic recordings. Unless the public is excluded from the trial or the course of a proceeding is thereby disrupted, the parties to the proceeding and the injured party may audio record for their own needs the course of the trial.
- (7) If recording is allowed pursuant to paragraph 6 of this Article, the judge may decide, on justified grounds, at the trial itself that particular parts thereof shall not be recorded.
- (8) The decision disallowing or allowing recording referred to in paragraphs 6 and 7 of this Article shall not be subject to appeal.
- (9) The parties to and participants in the proceedings (Article 108, paragraphs 1 and 2) shall have the right to propose at the trial the taking of evidence, give other proposals and statements, including statements on the evidence taken and, with the judge's permission, put questions to other persons in the proceedings. The judge shall decide on the evidentiary

proposals of parties to and participants in a proceeding, which decision accompanied by a short statement of reasons shall be stated on the record. Such decision shall not be subject to special appeal.

### *Disciplinary punishment*

#### Article 166

- (1) If the actions of defence counsel, the attorney-in-fact or statutory representative during the course of proceedings are obviously aimed at protracting the proceedings, the court may decide to punish them with a fine of up to HRK 5,000.00.
- (2) If a defendant, defence counsel, injured party, statutory representative, attorney-in-fact, witness, expert witness, interpreter or another person attending a hearing disrupts the trial or refuses to obey the judge's orders aimed at preserving order, the judge shall caution them. If they continue to disrupt the trial, the judge may punish them with a fine of up to HRK 5,000.00. If the act of disrupting the trial or refusing to obey the judge's orders is of a serious nature, the perpetrator shall be punished without being cautioned. Where such behaviour takes place repeatedly, the perpetrator shall be punished by a fine of up to HRK 10,000.00.
- (3) The court shall inform the Croatian Bar Association whenever a lawyer or a trainee lawyer is punished.

### *Conditions for holding the trial*

#### Article 167

- (1) Where before the session opens, the judge establishes that the prosecutor has withdrawn the motion to indict, they shall deliver a judgement dismissing the charges.
- (2) Before the session opens, the judge shall check whether all the persons summoned are present at the trial and whether the other conditions for the holding of the trial are met.
- (3) Where a party to or other participants in the proceedings, despite having been properly served with the summons, fail to be present at the trial, the trial may nevertheless be held and a judgement delivered. The trial may be held in the absence of the defendant if their examination is not necessary and this does not prejudice the lawful and proper delivery of the judgement.
- (4) Where other summoned persons fail to be present at the trial, the trial shall be held in their absence, and if their presence is necessary, the trial shall be adjourned and the court shall summon them again or, where conditions therefor exists, order their bringing before the court.
- (5) Where the prosecutor is not summoned properly, the trial may exceptionally be held in their absence provided this does not prejudice their legal interest nor jeopardise the correct determination of facts in the proceedings.
- (6) Where the conditions for the holding of the trial in the absence of particular persons exist, the defendant's defence as previously stated orally or filed in writing, testimonies by witnesses and the findings and opinion obtained from expert witnesses shall be read out.
- (7) If the conditions for the holding of the trial are not met, the judge may question out of session witnesses and expert witnesses who responded to the trial summons. The record of their questioning shall be read at the trial session during the later evidence-taking procedure.
- (8) Where, in view of the status of evidence in the case file, a judgement dismissing the charges is to be delivered, the trial shall be held irrespective of whether or not the parties and other summoned persons are present and whether or not the statutory conditions for the holding of the trial are met.



## *Adjournment of the trial and stay of proceedings*

### Article 168

(1) A trial that has not yet started may be adjourned by decision. Where the trial has already started, proceedings shall be stayed and the next court session scheduled:

1. if the defendant fails to respond to the summons to attend trial and the judge deems their examination necessary before delivering the judgement and it is not possible to bring them before the judge immediately;
2. if any other person whose presence at the trial is required by law is absent or if it would not be expedient to hold the trial in the absence of any of the summoned persons, which is why such persons need to be re-summoned;
3. if the defendant or their counsel have not been properly summoned to attend the trial;
4. if new evidence needs to be taken or there are other impediments to bringing the proceedings to an end.

(2) In the cases referred to in paragraph 1, points 1 and 2, of this Article, the court shall order that the defendant, witness and expert witness who were properly summoned be brought before the judge at the next session. Where in the meantime such persons provide a justification for their absence at the trial and promise to be present at the next session, the court shall withdraw its warrant for their bringing to court unless it is apparent from the circumstances that such persons are avoiding to attend the trial.

(3) The judge may stay proceedings in order to make a break, if court hours are over, in order to procure particular evidence or for other justified reasons. The judge shall see to it that the period of stay is as short as possible.

(4) The decision on adjournment and stay of proceedings shall not be subject to appeal.

### *Trial record*

### Article 169

(1) A record shall be made of the work done at a trial. Such record shall contain essentially the entire course of trial proceedings.

(2) A record shall end with the closing of the session and shall be signed by the judge, recorder and, if present, the defendant. Refusal by the defendant to sign the record shall be stated thereon.

(3) Parties to and participants in a proceeding shall be entitled to review the record drawn up and its annexes, give remarks concerning its contents, and request corrections thereto.

(4) Upon motion of either party or the person examined or upon their own motion, the judge may order that any incorrectly recorded names, numbers or other obvious spelling mistakes be corrected.

(5) Any remarks and suggestions by the parties concerning the record as well as any amendments and supplements thereto shall be recorded at the bottom of the drawn-up record. The reason for which a particular suggestion or remark was not accepted shall also be specified at the bottom of the record. Such additional notes at the bottom of the record shall also be signed by the judge and recorder.

(6) In its introduction, a record shall state the name of the court at which the trial is held, the place and time of the trial, the names of the judge and the recorder, the prosecutor or their representative, the defendant and defence counsel, the injured party and their statutory representative or attorney-in-fact, the interpreter, the misdemeanour tried, and the indication whether the trial is open or closed to the public.

(7) A record shall in particular contain information on which motion to indict was read out or orally presented at the trial, on whether the motion to indict was amended or expanded during the trial, on the motions put forward by the parties and the decisions taken by the judge, on the evidence taken, on whether any records and other briefs or applications were read out or any audio or other recordings played, on the parties' remarks concerning the records, briefs or applications read out or the recordings played. If the trial is closed to the public, the record shall include the judge's warning to those present about the consequences of their unauthorised disclosure of any confidential information they acquired during the course of the trial.

(8) If a decision on detention, a precautionary measure, or bail is taken at the trial, such decision shall be stated on the record. If a particular decision taken in the course of the trial is subject to special appeal, such decision shall also be drawn up separately, unless the parties waive their right to appeal.

(9) A trial record shall include the entire operative part of a judgement together with an indication of whether or not it was announced publicly. The operative part of a judgement stated on the trial record shall constitute the original judgement.

#### *Start of trial*

#### Article 170

(1) The trial starts with its opening, whereupon the motion to indict is read or presented.

(2) The motion to indict is read out or orally presented by the judge or, if they are present at the trial, by the prosecutor or their representative.

#### *Examination of defendant*

#### Article 171

(1) When examined for the first time, a defendant shall be asked to state their full name, alias, if they have one, the full names of their parents, their mother's maiden name, place of birth, home address, day, month and year of birth, nationality, Croatian citizen's registration number, activity pursued, family situation, whether they can write, their educational background, whether they have been decorated, their financial situation, whether they have ever been convicted of a misdemeanour or a criminal offence and if yes, why, whether they have served a sentence and if yes, when, whether any other misdemeanour or criminal cases are pending against them, and if they are juvenile, the name of their statutory representative. A defendant shall be asked to give further personal details if such details are of relevance to the proceedings. Furthermore, they shall be informed of their duty to respond to the summons and immediately notify the court of any change of address or intention to change their place of residence as well as of the consequences of failing to do so.

(2) When examined for the first time, a defendant shall be instructed on not being required to state their defence or reply to any questions, which shall be stated on the record.

(3) A defendant shall be examined orally. When being examined, a defendant may be allowed to consult their notes.

(4) When being examined, a defendant shall be given the opportunity to refer in an uninterrupted narrative to all the circumstances they are charged with and to present all the facts in support of their defence.

(5) When a defendant concludes their testimony, they shall be asked such questions as are necessary to fill in any gaps or resolve any contradictions in their narrative.

- (6) Examination shall be conducted in a manner that fully respects the person of the defendant.
- (7) A defendant may not be subjected to force, threats or other similar means to obtain a statement or confession.
- (8) Where the provisions of paragraphs 2 and 7 of this Article have not been complied with, the testimony of a defendant cannot be used in evidence in a misdemeanour proceeding.
- (9) If a defendant is not resident or domiciled within the jurisdiction of the court conducting the misdemeanour proceeding, they may be examined pursuant to a letter of request before the court having jurisdiction over their residence or domicile.

#### *Defendant's right to counsel*

#### Article 172

- (1) A defendant may have counsel for the entire course of misdemeanour proceedings as well as before its institution where so provided in this Act (Article 158, paragraph 6).
- (2) If a defendant is arrested and brought before the court, the judge shall be required to inform them of their right to counsel. If a defendant states that they want counsel, their examination shall be suspended for no more than two hours, during which period of time the defendant shall accordingly be enabled to retain counsel or choose one from the list of lawyers on duty. If a defendant does not retain counsel or the counsel they retain or choose fails to come within this period of time, the court may examine the defendant also in the absence of counsel. A defendant's decision concerning counsel shall be stated on the record.
- (3) If the judge establishes that a defendant is mute or deaf, they shall, irrespective of the stage of the proceeding, proceed in respect of everything as provided in paragraph 2 of this Article. If a defendant fails to retain counsel, the court president shall, upon motion of the judge, appoint counsel for the defendant who shall represent the defendant in the further course of proceedings until the proceeding is finally concluded. An appeal against the decision appointing court-appointed counsel shall not stay the decision's enforcement. In any case, an interpreter shall be present during both the examination of a defendant and the performance of other acts in the proceeding in which a defendant who is deaf or mute takes part.
- (4) Where the provisions of paragraphs 2 and 3 of this Article have not been complied with, the defendant's testimony cannot form the basis of the judgement of conviction.

#### *Examination of witnesses and expert witnesses*

#### Article 173

- (1) Unless this Act provides otherwise, the provisions of the Criminal Procedure Act on the examination of witnesses and expert witnesses shall apply *mutatis mutandis* to the examination of witnesses or expert witnesses in a misdemeanour case (Article 166, paragraph 2, Article 167, paragraph 7, and Article 168, paragraph 2).
- (2) If a witness or expert witness is not resident or domiciled within the jurisdiction of the court conducting the proceeding, they may be examined pursuant to a letter of request before the court having jurisdiction over their residence or domicile.

#### *Search, temporary seizure of items, identification, inspection and expert examinations*

#### Article 174

The relevant provisions of the Criminal Procedure Act shall apply *mutatis mutandis* to the search of homes or other premises, means of transport, luggage and persons, temporary seizure of items, suspension of the execution of a financial transaction, identification, inspection and ordering of expert examinations in a misdemeanour proceeding, including before its institution (Article 159).

#### *Documents and technical recordings*

##### Article 175

Records of searches, temporary seizures of items, identifications, inspections and expert examinations, documents, books, files and other documentation and technical recordings the purpose of which is to establish facts shall be read or examined at the trial.

#### *Amendment and extension of a motion to indict and filing of a new motion to indict*

##### Article 176

(1) If in the course of a trial it becomes apparent that the facts to which the evidence taken points are different from those set forth in the motion to indict, the prosecutor present may, until the end of the evidence-taking procedure, orally amend (change, narrow or extend) the motion to indict or file a new motion to indict. The new or amended motion to indict may refer only to such event as is the subject matter of the charge or to an event closely related thereto. Where the factual description of an act or its grading is amended only to a minor degree, the motion to indict may be amended orally on the record.

(2) The court may stay a proceeding for no more than eight days to allow for the drawing up of an amended or new motion to indict. The thus amended motion to indict shall be served on the defendant. If the prosecutor fails to amend the motion to indict or file a new one within the set time period, the proceeding shall be resumed under the existing motion to indict.

(3) The defendant shall in any case be given the opportunity to state their position orally or in writing on the amended or new motion to indict.

#### *Closure of evidence*

##### Article 177

After the parties to or participants in a proceeding (Article 108, paragraphs 1 and 2) that are present at the trial submit all the evidence or the judge denies all motions for further evidence taking and determines there is no need for further evidence taking, the judge shall declare that the submission of evidence is closed.

#### *Closing statements and end of trial*

##### Article 178

(1) After closure of evidence the judge shall invite the parties, injured party, and defence counsel, if present at the trial, to make their closing statements. The prosecutor shall be the first to make their closing statement, followed by the injured party, defence counsel, and defendant. The judge may allow the prosecutor and injured party to reply to the closing statement of the defendant and/or their defence counsel, whereupon the defendant and/or their

defence counsel must also be allowed a rebuttal.

(2) Unless after the closing statements referred to in paragraph 1 of this Article the judge determines that further evidence needs to be taken, they shall declare that the trial has ended and shall retire to deliberate the case.

## Twenty-fourth Title (XXIV) JUDGEMENT

### *Delivery and public announcement of judgement*

#### Article 179

(1) If the judge determines that the trial need not be resumed for the purpose of supplementing a proceeding or clarifying particular issues, they shall hand down a judgement immediately, of which they shall inform the parties to and participants in the proceeding that are present. If in complex cases the judge is unable to deliver a judgement after the end of the trial on the same day, they shall postpone its delivery and announcement for three days. The parties and participants present shall be informed of the place and time of the judgement's announcement. In any case, the operative part of a judgement shall be stated on the trial record and shall constitute the original judgement. Any detention decision made shall also be stated on the trial record.

(2) A judgement shall be delivered and publicly announced in the name of the Republic of Croatia.

(3) A judgement may relate only to the person against whom the motion to indict was filed and the proceeding conducted and only to the act referred to in the filed motion to indict or the motion to indict that was amended or extended at the trial.

(4) The court shall not be bound by the prosecutor's proposal concerning an act's legal evaluation.

(5) The court shall base its judgement only on such facts and evidence as were presented at the trial, conscientiously weighing each piece of evidence individually and in relation to other evidence, and on the basis of such weighing it shall draw the conclusion on whether a particular fact is proven.

(6) Unless this Act provides otherwise, a certified transcript of the judgement, including its statement of reasons shall be served on the parties and other persons entitled to appeal.

(7) Whoever is entitled under this Act to appeal a judgement may waive such right after being orally informed of or served with the judgement they are entitled to appeal, or may withdraw an appeal already filed. A defendant may withdraw an appeal filed for their benefit by the person authorised therefor (Article 192, paragraph 2). If a defendant waives their right to appeal, no appeal may be filed by the person authorised to appeal for the defendant's benefit.

(8) Waiver of the right to appeal or withdrawal of an appeal already filed shall be irrevocable.

(9) If after a judgement is announced, the prosecutor and defendant waive, in accordance with paragraph 7 of this Article, their right to appeal, the court shall not be required to draw up a statement of reasons. A certified transcript of the judgement (its operative part) shall be served on them if they specifically request so.

### *Types of judgements*

#### Article 180

- (1) A judgement dismisses the charge or acquits the defendant of a charge or finds them guilty.
- (2) If a motion to indict refers to more than one misdemeanour, the judgement shall state whether and with respect to which misdemeanour a charge is dismissed, or a defendant acquitted or found guilty.

#### *Judgement dismissing a charge*

##### Article 181

The court shall hand down a judgement dismissing a charge if:

1. it lacks subject matter jurisdiction;
2. the proceeding was conducted without a motion to indict filed by an authorised prosecutor;
3. in the course of the trial the prosecutor withdrew the motion to indict;
4. the defendant has already been finally convicted of the same misdemeanour, acquitted of the same misdemeanour charge, or if a proceeding against them for the same misdemeanour has already been finally terminated by a decision other than the decision terminating a proceeding referred to in Article 213 of this Act;
5. misdemeanour prosecution cannot be brought due to the statute of limitations having run or where other circumstances exist that bar misdemeanour prosecution.

#### *Judgement acquitting a defendant of a charge*

##### Article 182

The court shall hand down a judgement acquitting the defendant of a charge if:

1. the act with which a defendant is charged is not a misdemeanour under law;
2. circumstances excluding guilt exist;
3. it has not been proven that a defendant committed the act they are charged with.

#### *Judgement finding a defendant guilty*

##### Article 183

(1) In a judgement finding a defendant guilty the court shall state:

1. the act the defendant is found guilty of, specifying the facts and circumstances constituting the elements of the misdemeanour in question as well as those on which the application of this Act and other regulations laying down the misdemeanour in question depends;
2. the name of the misdemeanour under the regulation laying it down;
3. the sentence or other measure imposed or whether, under the provisions of this Act, the defendant's sentence is remitted;
4. which protective measure is imposed and whether the pecuniary advantage is to be confiscated;
5. decision on the award of credit for any time spent in detention or period of time the defendant was deprived of liberty;
6. decision on the costs of a misdemeanour proceeding and the settlement of the civil claim brought within the framework thereof.

(2) If a defendant is imposed a fine, the judgement shall specify the time limit for its payment.



## *Writing of judgement and its service*

### Article 184

- (1) A judgement announced shall be written down and dispatched within a month of its announcement.
- (2) A judgement shall be signed by the judge and the recorder.
- (3) Unless this Act provides otherwise, the parties to and participants in a proceeding shall be served with a certified transcript of the judgement (Article 146, paragraph 3, and Article 179, paragraph 9). If they are entitled to appeal, the defendant, injured party-prosecutor, and injured party shall be served, in addition to the judgement, with an instruction on the right to appeal.
- (4) Upon request, a final judgement shall be served on the injured party. The judgement in a misdemeanour domestic violence case shall always be served also on the injured party.

## *Contents of a judgement*

### Article 185

- (1) A written judgement shall fully correspond to the announced judgement.
- (2) Unless this Act provides otherwise, a judgement shall have an introduction, operative part and statement of reasons.
- (3) The introduction of a judgement shall include: an indication that the judgement is pronounced in the name of the Republic of Croatia, name of the court, names of the judge and recorder, name of the defendant or the defendant-legal entity or entity equated with a legal entity, the misdemeanour they are charged with in the motion to indict, whether or not the defendant was present at the trial, date of trial and whether or not the trial was open to the public, indication of who the prosecutor is, names of defence counsel, statutory representative and attorney-in-fact present at the trial, and date the judgement was publicly announced.
- (4) A judgement's operative part shall include: defendant's personal details, decision pronouncing the defendant guilty of the misdemeanour they were charged with, or acquitting them of such charge, or dismissing such charge.
- (5) If the defendant is pronounced guilty, the operative part of the judgement shall contain the necessary details set out in Article 183 of this Act and if they are acquitted of the charge or the charge is dismissed, the operative part shall include a description of the act they were charged with, the decision on the costs of the misdemeanour proceeding, and the decision on the settlement of the civil claim if such claim was brought within the framework of the misdemeanour proceeding in question.
- (6) In the case of misdemeanours in concurrence, the operative part of the judgement shall first specify the penalties determined for each individual misdemeanour and thereupon the penalty imposed for all misdemeanours in concurrence.
- (7) The statement of reasons shall briefly present the reasons for each paragraph of the judgement in the following manner: present the facts that are beyond dispute, state which disputed facts and why the court holds proven or not proven, assess the authenticity of contradictory evidence, state the reasons why the court did not accept particular motions of the parties to or participants in a proceeding, the reason why a particular witness or expert witness was not examined in person, the reasons the court took into account when resolving questions of law and, in particular, when determining whether a misdemeanour has or has not been committed and whether or not a defendant is guilty, refer to the applicability of particular provisions of this Act and the relevant misdemeanour regulation to a defendant and

their act.

(8) Where a defendant is imposed a penalty, the statement of reasons shall contain a brief presentation of the circumstances the court took into account when determining the penalty. It shall in particular state the reasons for mitigating a penalty or imposing a more severe penalty prescribed, or for granting a discharge of penalty, or imposing a cautionary measure, or a protective measure, and for confiscating any pecuniary advantage. When imposing a fine, the court shall present the defendant's personal circumstances and financial condition.

(9) Where a defendant is acquitted of a charge, the statement of reasons shall contain the reasons for which this is done as set out in Article 183, paragraph 2, of this Act.

(10) A statement of reasons dismissing a charge shall not engage in merits assessment but shall limit itself only to the reasons for which a charge was dismissed.

### *Correction of a judgement*

#### Article 186

(1) Any misspelled names or incorrectly written numbers, other obvious spelling or arithmetic mistakes, formal defects in, or discrepancies between a written judgement or another decision, on the one hand, and the original, on the other, shall be corrected by a special decision of the judge upon motion of any party or upon the judge's own motion.

(2) In case of a discrepancy with respect to the information referred to in Article 183, paragraph 1, points 1 through 4 and point 6, of this Act between a written judgement or any another decision, on the one hand, and its original, on the other, the decision on the corrections shall be served on all those who were previously served with the judgement or such other decision.

(3) A second-instance judgement may be corrected only in the case of obvious mistakes in the writing of names or numbers or other obvious spelling and arithmetic mistakes. The dispatched judgement and its correction shall produce legal effect with respect to the parties and third persons.

(4) If a correction changes the defendant's legal position, the decision correcting the judgement or any other decision shall be served on all those who were served with the judgement or such other decision and who are entitled to appeal or another remedy. In such case, a new time limit for filing an appeal or seeking other legal recourse by the persons entitled thereto shall start running.

### Twenty-fifth Title (XXV)

#### MISDEMEANOUR PROCEEDINGS BEFORE STATE ADMINISTRATION BODIES

### *Application of regulations on the conduct of proceedings*

#### Article 187

Unless the provisions of this Title provide otherwise, state administration bodies with subject-matter jurisdiction to conduct first-instance misdemeanour proceedings shall conduct such proceedings in accordance with the procedural provisions of this Act relating to misdemeanour courts.

### *Institution of a misdemeanour proceeding*

#### Article 188

State administration bodies conduct misdemeanour proceedings as of right or on the basis of an authorised prosecutor's motion to indict.

### *Conduct of proceedings*

#### Article 189

- (1) In a state administration body a misdemeanour proceeding shall be conducted and a misdemeanour decision and other decisions made by a single person managing the proceeding unless this Act provides that the proceeding is to be conducted by a panel.
- (2) The panel referred to in paragraph 1 of this Article may authorise one of its members to conduct a proceeding and make decisions in the course thereof, with the exception of the misdemeanour decision.
- (3) A law graduate who has passed the bar examination may be appointed to manage a proceeding or chair a panel.
- (4) The appointment referred to in paragraph 3 of this Article shall be done in accordance with the statute on the organisational structure of the competent state administration body conducting a misdemeanour proceeding.
- (5) The provisions of paragraphs 1 through 4 of this Article shall not apply to state administration bodies that in exercising supervision issue misdemeanour warrants (do not conduct misdemeanour proceedings).
- (6) Where this Act specifies that a decision is to be made in the course of a proceeding by the president of the misdemeanour court having jurisdiction, or the president of the High Misdemeanour Court of the Republic of Croatia, or by the High Misdemeanour Court of the Republic of Croatia, such decision, where a misdemeanour proceeding is conducted by a state administration body, shall be made by the head of the competent state administration body or the minister responsible for this state administration body.
- (7) Where in the course of a misdemeanour proceeding before a state administration body the conditions for the imposition or extension of a defendant's detention as set out in Articles 135 and 136 of this Act are met, the state administration body shall request from the misdemeanour court having jurisdiction to make a decision thereon. To this end the state administration body may order that the defendant be brought before this court.

### *Misdemeanour decision*

#### Article 190

- (1) A state administration body conducting a misdemeanour proceeding issues a misdemeanour ruling terminating a misdemeanour proceeding or finding the defendant guilty.
- (2) In the cases set forth in Articles 181 and 182 of this Act, a misdemeanour ruling shall be issued terminating a misdemeanour proceeding against a defendant.
- (3) Unless this Act provides otherwise, a misdemeanour ruling finding a defendant guilty shall contain the information set out in Article 183 of this Act.
- (4) The introduction of a misdemeanour ruling shall refer to the Republic of Croatia.
- (5) A misdemeanour ruling imposing a fine on a defendant shall specify the time limit for the payment of the fine.

## 1. APPEAL AGAINST A JUDGEMENT OF A COURT OF FIRST-INSTANCE

### *General provisions*

#### Article 191

- (1) Unless this Act provides otherwise, an authorised person may appeal a judgement of a court of first-instance within eight days from the date of service of the transcript of the judgement.
- (2) If a judgement is served on both a defendant and their defence counsel but on different dates, the time limit for appeal shall be calculated from whichever date is later.
- (3) An appeal filed in due time by an authorised person shall stay the enforcement of the judgement.
- (4) Provisions on the appeal against a judgement of a court of first instance shall apply *mutatis mutandis* to the appeal against a misdemeanour ruling of a first-instance state administration body (Article 190).

### *Persons authorised to appeal*

#### Article 192

- (1) A first-instance judgement is appealable by the parties, defence counsel and injured party.
- (2) An appeal for the benefit of a defendant may also be filed by the defendant's spouse or common-law spouse, their lineal relative, statutory representative, adopter, adoptee, sibling and foster child. In such a case the time limit for appeal runs in accordance with Article 191, paragraph 2, of this Act.
- (3) A prosecutor may file an appeal both to the detriment and for the benefit of a defendant.
- (4) An injured party may challenge a judgement only with respect to the decision on the costs of the misdemeanour proceeding.
- (5) An appeal may also be filed by whoever was confiscated a pecuniary advantage obtained by the misdemeanour in question.
- (6) Defence counsel and the persons referred to in paragraph 2 of this Article may file an appeal also without a defendant's special authorisation but in any case not against their will.

### *Contents of an appeal*

#### Article 193

- (1) An appeal must include:
  1. a designation of the judgement appealed against;
  2. the grounds for challenging the judgement;
  3. a statement of reasons for the appeal;
  4. a motion to set aside or amend in full or in part the challenged judgement;
  5. the name and signature of the appellant.
- (2) The court shall reject an appeal if it cannot establish to which judgement it refers or who the appellant is.
- (3) If an appeal is not signed by the appellant, the appellant shall be invited to sign it within eight days. If they fail to do so, the appeal shall be rejected.
- (4) An appeal not containing any other information referred to in paragraph 1 of this Article shall nevertheless be taken into consideration by the court.

(5) An appeal may put forward new facts and new evidence only if such facts and evidence did not exist at the time of the first-instance proceeding or if the appellant was unaware of them.

### *Grounds for challenging a judgement*

#### Article 194

A judgement may be challenged on the following grounds:

1. an error of procedural misdemeanour law;
2. an error of substantive misdemeanour law;
3. an error of fact;
4. decision on misdemeanour sanctions, confiscation of a pecuniary advantage, costs of a misdemeanour proceeding and the civil claim brought within the framework of a misdemeanour proceeding.

### *Error of procedural misdemeanour law*

#### Article 195

(1) The following shall constitute an error of procedural misdemeanour law:

1. the composition of the court was contrary to law or one of the judges delivering a judgement did not take part in the proceeding or the trial itself, unless the trial or proceeding was conducted, as provided by law, by a judicial advisor, or was recused from the trial by a final decision;
2. the judge who took part in the trial or the proceeding should have been recused (Article 104, paragraph 1);
3. a trial was held or a proceeding conducted without the participation of the parties to and participants in the proceeding contrary to the provisions of this Act;
4. a defendant, defence counsel or injured party-prosecutor was, contrary to their request, denied the right to use during the trial their own language and to follow the trial in their own language;
5. a decision excluding the public from the trial was taken contrary to law;
6. the court has made an error of procedural misdemeanour law in respect of the issue of existence of an authorised prosecutor's motion to indict or of whether or not the judgement has exceeded the motion to indict;
7. a decision was taken by a court not having subject-matter jurisdiction to try the case in question or the court has incorrectly ruled to terminate a misdemeanour proceeding for lack of subject-matter jurisdiction;
8. the court judgement fails to fully address the subject matter of the charge;
9. the judgement violates the provision of Article 202, paragraph 4, of this Act;
10. the judgement is based on evidence referred to in Article 90 of this Act;
11. the operative part of the judgement is incomprehensible, contradictory to itself or the reasons for the judgement, or the judgement fails to provide any reasons, or fails to provide reasons concerning the decisive facts, or such reasons are entirely unclear or to a significant degree contradictory, or, if in respect of the decisive facts, there is a significant contradiction between what is stated in the reasons for the judgement concerning the contents of documents or records of testimonies and statements given in the proceeding and the documents or records themselves.

(2) An error of procedural misdemeanour law shall likewise exist if in preparing for or in the

course of a trial or a proceeding or in handing down a judgement the court fails to apply or incorrectly applies any provision of this Act or violates the right to defence at a trial or during a proceeding, which affects or might affect the judgement.

#### *Error of substantive misdemeanour law*

##### Article 196

There shall be an error of substantive misdemeanour law where an act or a regulation based thereon is violated in respect of the following:

1. does the act for which a proceeding is conducted against a defendant represent a misdemeanour;
2. are there any circumstances excluding guilt;
3. are there any circumstances excluding misdemeanour prosecution and, in particular, has the statute of limitations for misdemeanour prosecution expired or the case has already been decided by a final judgement;
4. has a regulation that cannot be applied been applied with respect to the misdemeanour that is the subject matter of the charge;
5. does a decision on the penalty, suspended sentence or admonition or a decision on a protective measure or the confiscation of a pecuniary advantage go beyond the powers conferred on the court by law;
6. have the provisions concerning the crediting of time spent under arrest, in detention or serving a sentence been violated.

#### *Error of fact*

##### Article 197

- (1) A judgement may be challenged if there is an error of fact.
- (2) An error of fact in the sense of an erroneously determined fact shall exist whenever the court incorrectly determines some decisive fact or where the contents of a document, a record of evidence taken or a technical recording raise serious doubts as to whether a decisive fact has been correctly and reliably determined.
- (3) An error of fact in the sense of an incompletely determined fact shall exist whenever some decisive fact has not been determined.

#### *Decision on misdemeanour sanctions and other issues*

##### Article 198

- (1) A judgement may be challenged on the decision on the penalty, suspended sentence and admonition despite such decision not exceeding the court's statutory powers (Article 196, paragraph 5) if the court has failed to correctly determine the penalty in view of the circumstances affecting the severity of the penalty or if the court has applied or failed to apply the provisions on penalty mitigation, discharge of penalty, suspended sentence or admonition despite the statutory conditions therefor having been met.
- (2) A decision on a protective measure or the confiscation of a pecuniary advantage may be challenged despite the provision of Article 196, point 5, of this Act not having been violated if the court failed to take such decision in compliance with the law or the court failed to impose a protective measure or the confiscation of a pecuniary advantage despite the statutory



conditions therefor having been met. The decision on the costs of a misdemeanour proceeding may be challenged for the same reasons.

(3) The decision on the civil claim brought within the framework of a misdemeanour proceeding may be challenged where the decision thereon has been taken by the court contrary to law or where such decision is unfounded.

### *Appellate proceeding*

#### Article 199

(1) An appeal shall be filed with the court that rendered the first-instance judgement in such number of copies as is sufficient for both the first-instance and the second-instance court.

(2) A belated or inadmissible judgement shall be rejected by decision of the judge of the court of first instance.

(3) The decision referred to in paragraph 2 of this Article may be appealed by the person whose appeal has been rejected.

### *Delivery of the appeal and the file to the court of second instance*

#### Article 200

(1) Where in the case of an appeal relating to a misdemeanour proceeding conducted upon the motion of the state attorney, the file is delivered to a court of second instance, the file shall be delivered to the competent state attorney who shall examine it and return it immediately to the court.

(2) After the file is delivered to the court of second instance, it shall be assigned to a judge rapporteur. Such judge may obtain from the court of first instance a report on the errors of procedural and substantive misdemeanour law and accordingly check the allegations made in the appeal and obtain the necessary reports and files.

(3) If a judge rapporteur establishes that the files contain such records or parts thereof as are provided in Article 121, paragraph 1, of this Act, it shall decide on their placing into a separate sealed envelope and shall leave them in the case file.

### *Panel session*

#### Article 201

(1) After a judge rapporteur proceeds as provided in Article 200 of this Act and prepares a report on a case, they shall set the time and place of a panel session.

(2) Where a judgement imposing a sentence of imprisonment on a defendant is appealed against, such defendant and their counsel (if they have one) as requested, within the time limit set for appeal, to be informed of the session shall be informed of the panel session. Where the proceeding is conducted upon the motion of the state attorney, the state attorney shall also be informed of the panel session. In this case, the judge rapporteur or panel may decide to inform of the panel session the defendant and their counsel also where the defendant did not request to be informed of the panel session if their presence would be useful for clarifying the matter at hand.

(3) Where in the case referred to in paragraph 2 of this Article the defendant is in detention, custody or is serving their sentence, their presence at a panel session shall be ensured only where the judge rapporteur or the panel deem this expedient.

(4) A panel session shall begin with a report of the judge rapporteur on the facts of the case. The panel may request from the parties present at the session any necessary explanations regarding the appeal allegations. The parties may propose that for the purpose of supplementing the report particular files be read and may, with the panel chair's permission, explain, as necessary, the views stated in the appeal. In doing so, they shall not repeat the contents of the appeal.

(5) A session may be held also in the absence of the parties that were properly informed thereof. If a defendant was not informed because they failed to inform the court of a change of residence or abode, a panel session may be held despite their not having been informed of the session.

(6) Records of panel sessions held under paragraph 2 of this Article shall be enclosed in the files of courts of first and second instance.

#### *Scope of review of first-instance judgements and certain limitations*

### Article 202

(1) A court of second instance shall review a judgement in relation to such part thereof as is challenged by appeal and on the grounds and for the reasons stated by the appellant in the appeal. In respect of such part of the judgement as is reviewed on appeal the court shall also review of its own motion whether the judgement violates to the disadvantage of the defendant any provision of substantive misdemeanour law and whether the statute of limitations for misdemeanour prosecution has expired.

(2) Upon appeal by the prosecutor, a first-instance judgement may be set aside or amended also to the advantage of the defendant.

(3) The violation set out in Article 195, paragraph 1, point 2, of this Act may be asserted by the appellant in their appeal only where the appellant was unable to assert it in the course of the trial or the proceeding or where, although they asserted it, the court of first instance failed to take it into account.

(4) Where an appeal is filed only to the defendant's advantage, a judgement may not be amended to their disadvantage.

(5) An appeal filed for the defendant's benefit on an error of fact or an error of substantive misdemeanour law shall also include an appeal against the decision on the misdemeanour sanction or the confiscation of a pecuniary advantage.

(6) If, upon someone's appeal, the court of second instance establishes that the reasons for which it decided in favour of the defendant are also advantageous to any co-defendant who did not appeal or did not appeal in this sense, it shall proceed of its own motion as if such an appeal was filed, unless a judgement has been delivered dismissing the charge against the appellant due to the expiry of the statute of limitations for misdemeanour prosecution.

#### *Decisions on appeal of the court of second instance*

### Article 203

(1) In a panel session the court of second instance may make a decision rejecting an appeal as belated or inadmissible, or may deliver a judgement dismissing an appeal as unfounded and confirming the first-instance judgement, or may make a decision setting aside the first-instance judgement and remanding the case to the first instance, or may deliver a judgement amending the first-instance judgement.

(2) On all appeals against the same judgement the court of second instance shall decide in a single decision.

### *Rejecting an appeal*

#### Article 204

(1) A decision shall be made rejecting an appeal as belated if it is established that the appeal was filed after the statutory time limit.

(2) A decision shall be made rejecting an appeal as inadmissible if it is established that:

1. the appeal was filed by a person not authorised to appeal;
2. the appeal was filed by a person who has waived their right to appeal or who under this Act is deemed to have waived this right;
3. the appellant has withdrawn the appeal filed or is deemed under this Act to have withdrawn the appeal filed;
4. the appeal is not allowed under law.

### *Dismissing an appeal*

#### Article 205

The court of second instance shall deliver a judgement dismissing an appeal as unfounded and confirming the first-instance judgement where it establishes that the grounds on which the judgement is challenged do not exist.

### *Setting aside a first-instance judgement*

#### Article 206

(1) In upholding an appeal as well-founded, the court of second instance shall make a decision setting aside the first-instance judgement and remanding the case to the first instance if it establishes the existence of an error of procedural misdemeanour law, with the exception of the cases set out in Article 207, paragraph 1, of this Act, or if it holds that due to an error of fact a retrial or a new proceeding before the court of first instance is to be ordered.

(2) The court of second instance may order that a retrial or a new proceeding before the court of first instance be held before a different judge.

(3) The court of second instance may also set aside a first-instance judgement only in part if particular parts of the judgement can be singled out without prejudice to proper adjudication.

### *Amending a first-instance judgement*

#### Article 207

The court of second instance shall, in upholding an appeal, deliver a judgement amending the first-instance judgement if it accepts the established facts as set out in the operative part of the judgement as correct and fully established and finds that in view of the established facts and through the proper application of law a different judgement needs to be delivered, and according to the facts, also in the case of any of the violations set out in Article 195, paragraph 1, points 6 and 9, of this Act.

## *Statement of reasons for a second-instance judgement or decision*

### Article 208

- (1) In the statement of reasons for its judgement or decision, the court of second instance needs to assess in essence the appeal allegations and state the violations of law it has taken into account.
- (2) Where a first-instance judgement is set aside for an error of procedural misdemeanour law, the statement of reasons shall specify which provisions of procedural misdemeanour law have been violated and in what respect.
- (3) Where a first-instance judgement is set aside for an error of fact, the deficiencies in the establishment of facts, in particular in deciding on the motions of the parties for the obtainment and taking of particular evidence and why the new evidence and facts are important for proper adjudication, shall be stated.

### *Delivery of the file to the court of first instance*

### Article 209

- (1) The court of second instance shall return all the files to the court of first instance together with a sufficient number of certified copies of its decision to be served on the parties and the other persons concerned.
- (2) If a defendant is in detention, the court of second instance shall deliver its decision and the files to the court of first instance as soon as possible.

### *Retrial and decision-making by the court of first instance*

### Article 210

- (1) The court of first instance that is remanded the case shall proceed on the basis of the previous motion to indict. If a first-instance judgement is set aside in part, the said court shall proceed only on the basis of such part of the motion to indict as relates to the part of the judgement that was set aside.
- (2) At a retrial or in a new proceeding the parties may assert new facts and present new evidence.
- (3) The court of first instance shall perform all procedural acts and discuss all disputed issues to which the decision of the court of second instance refers.
- (4) In handing down a new judgement, the court of first instance is bound by the prohibition referred to in Article 202, paragraph 4, of this Act.

## 2. APPEAL AGAINST A DECISION AND LEGAL RECOURSE AGAINST AN ORDER

### *Appeal against a decision*

### Article 211

- (1) An appeal against a decision of a court of first instance that was made before, in the course of and after a conducted proceeding may always be filed by the parties and persons whose rights have been violated, unless this Act provides that it is not appealable. An appeal shall be filed with the court that made the decision within three days from the day of service of the

decision, unless this Act provides for a different time limit. Unless this Act provides otherwise, an appeal shall stay the enforcement of the decision.

(2) In deciding on an appeal, the court of second instance may decide to reject the appeal as belated or inadmissible, dismiss the appeal as unfounded, or uphold the appeal and amend or set aside the decision and, where necessary, remand the case to the first instance.

(3) The provisions of Article 179, paragraphs 7 and 8, Article 191, Article 193 through 199, and Article 202, paragraph 6, of this Act shall apply accordingly to the procedure for appealing a decision.

### *Legal recourse against an order*

#### Article 212

Unless this Act provides otherwise, orders shall not be appealable nor shall any other legal recourse be available against them.

### Twenty-seventh Title (XXVII) EXTRAORDINARY LEGAL REMEDIES

#### 1. REOPENING OF A MISDEMEANOUR PROCEEDING

##### *Reopening of a misdemeanour proceeding to the defendant's disadvantage*

#### Article 213

(1) A misdemeanour proceeding may be conducted anew at the request of the authorised prosecutor if:

1. the motion to indict was finally rejected because there was no authorised prosecutor;
2. the motion to indict was finally rejected for the reason set out in Article 239, paragraph 6, of this Act;
3. the previous misdemeanour proceeding was finally terminated for lack of authorised prosecutor;
4. the charge was finally dismissed because for lack of authorised prosecutor.

(2) A misdemeanour proceeding may be conducted anew on the basis of a corrected or supplemented motion to indict if the motion to indict was rejected by decision on the grounds that it was sloppily written or incomplete.

(3) If a charge is dismissed by a final judgement because the defendant, after committing a misdemeanour, has fallen victim to a long-term mental illness, the proceeding shall, upon motion of the authorised prosecutor, be continued as soon as the reasons for which such decision was made cease to exist.

(4) If the authorised prosecutor referred to in Article 109, paragraph 1, points 1 through 3, of this Act fails to institute a misdemeanour proceeding within the prescribed time limit or withdraws, in the course of the proceeding, the motion to indict, as a result of which the charge is dismissed by a final judgement and the injured party does not institute a proceeding, the misdemeanour proceeding may be reopened if it is proven that the proceeding was not instituted or that the motion to indict was withdrawn as a result of the criminal offence of abuse of official position by the person responsible therefor within the authorised prosecution authority. The provision of Article 214, paragraph 2, of this Act shall apply to the presentation of evidence.

(5) In the case referred to in paragraph 4 of this Article, limitation periods shall start to run from the day the conditions for the reopening of a misdemeanour proceeding are met.

*Reopening of a misdemeanour proceeding to the convicted person's advantage*

Article 214

(1) A misdemeanour proceeding that ended with a final judgement or another misdemeanour decision may be reopened to the advantage of the convicted person if:

1. it is proven that the judgement or another decision is based on a false document or a false testimony of a witness, expert witness or interpreter;
2. it is proven that the judgement or another decision was rendered as a result of a criminal offence committed by the responsible person of the prosecutor or by the judge;
3. new facts are put forward or new evidence presented which in themselves or in relation to previous evidence constitute an appropriate legal basis for the convicted person's acquittal or their conviction under a more lenient regulation;
4. a convicted person has been convicted more than once for the same act or if more than one convicted person were convicted of an act that could have been committed by only one or some of the convicted persons.

(2) In the cases referred to in paragraph 1, points 1 and 2, of this Article there must be a final judgement proving that the said persons have been found guilty of the criminal offences in question. Where a proceeding against these persons cannot be conducted by reason of their death or the existence of such circumstances as exclude criminal prosecution, the facts referred to in paragraph 1, points 1 and 2, of this Article may be established also by means of other evidence.

*Persons entitled to file a petition, filing of and deciding on a petition*

Article 215

(1) A petition for the reopening of a misdemeanour proceeding may be filed by the parties and, in case the convicted person dies, by the persons referred to in Article 192, paragraph 2, of this Act.

(2) A petition may be filed also after a misdemeanour sanction has been enforced and notwithstanding the statute of limitations.

(3) A petition shall be filed with and decided on by the misdemeanour court that heard the previous case.

(4) A petition shall state the statutory basis for requesting the reopening of a proceeding and the evidence corroborating the facts on which the petition is based. If a petition fails to include such information, the court shall proceed in accordance with Article 117, paragraph 4, of this Act.

(5) A judge who took part in the taking of the previous decision may not take part in deciding on the petition.

(6) The court shall decide to reject a petition if it establishes:

1. that the petition does not contain the information referred to in paragraph 4 of this Article;
2. on the basis of the petition itself and the file of the previous case that the petition has been filed by a person not entitled thereto;
3. that the statutory conditions for the reopening are not met;
4. that the facts and evidence forming the basis of the petition were already put forward in a previous petition for the reopening of a proceeding that was dismissed by a final court



decision;

5. that the facts and evidence obviously do not constitute an appropriate legal basis for the reopening of a proceeding.

(7) If the court does not reject a petition under paragraph 6 of this Article, it shall serve a copy of the petition to the opposing party, which shall have eight days to respond to the petition. When the court receives a response to the petition or when the deadline for submitting a response expires, the judge shall inquire into the facts and obtain the evidence put forward in the petition and the response to the petition.

(8) After conducting inquiries, the court shall immediately decide on the petition for the reopening of a proceeding so that it either accepts such petition and allows a misdemeanour proceeding to be reopened or dismisses such petition if the new evidence does not constitute an appropriate legal basis for the reopening of a misdemeanour proceeding.

(9) Where the court establishes that the reasons for which it allowed reopening exist also in respect of a co-defendant who did not file a petition, it shall proceed of its own motion as if such petition was filed.

### *New proceeding*

#### Article 216

(1) The same provisions that apply to the original proceeding shall apply to the new proceeding conducted on the basis of the decision allowing for the reopening of a misdemeanour proceeding. In the new proceeding the court shall not be bound by any of the decisions made in the previous proceeding.

(2) Where the court decides to stop a new proceeding until the start of the trial, such decision shall also set aside the previous judgement.

(3) When in a new proceeding the court delivers a judgement, it shall state that the previous judgement is either abrogated in full or in part or is to remain in force. Against the sentence imposed by the new judgement the court shall credit the time already served under the previous sentence and if a reopening is ordered only in respect of some of the acts for which the convicted person was convicted, the court shall impose a new aggregate sentence in accordance with the provisions of Article 39 of this Act.

(4) In a new proceeding the court shall always be bound by the prohibition set out in Article 202, paragraph 4, of this Act.

## 2. REQUEST FOR EXTRAORDINARY MITIGATION OF PENALTY

### *Admissibility of a request for extraordinary mitigation of penalty*

#### Article 217

(1) A finally imposed penalty may be mitigated when, after a misdemeanour decision imposing on the convicted person imprisonment or a fine in an amount exceeding ten thousand kuna, thirty thousand kuna or fifty thousand kuna in the case of, respectively, a natural person, a natural person-craftsperson or another sole trader, or a legal entity becomes final, such circumstances arise as either did not exist at the time the misdemeanour decision was imposed or, if they did exist, the court did not have knowledge of and which would have evidently led to the imposition of a less harsh sentence.

(2) The request for extraordinary mitigation of penalty may not be submitted after a penalty has been enforced.

*Submission of and persons entitled to submit a request for extraordinary mitigation of penalty*

Article 218

- (1) The request for extraordinary mitigation of penalty shall be submitted to the misdemeanour court that took the misdemeanour decision in the first instance.
- (2) A request for extraordinary mitigation of penalty may be submitted by the convicted person or any of their relatives who are entitled to appeal against the judgement for the benefit of the convicted person.
- (3) The request for extraordinary mitigation of penalty shall not stay the enforcement of the penalty, unless in the case of a prison sentence the judge of a court of first instance finds a justified reason to order otherwise.
- (4) The court of first instance shall immediately deliver the submitted request together with the case file to the High Misdemeanour Court of the Republic of Croatia.

*Deciding on a request for extraordinary mitigation of penalty*

Article 219

- (1) The request for extraordinary mitigation of penalty shall be decided by the High Misdemeanour Court of the Republic of Croatia.
- (2) The High Misdemeanour Court of the Republic of Croatia shall reject the said request if it is inadmissible or dismiss it if it establishes that the statutory conditions for extraordinary mitigation of penalty are not met. If it accepts the said request, the court shall decide to amend the final misdemeanour decision in respect of the decision on the penalty.
- (3) The court shall revoke its decision to accept the request for extraordinary mitigation of penalty if it is proven that the said decision is based on a false document or a false witness or expert witness testimony.

3. PROTECTION OF LEGALITY REQUEST

*Protection of legality request and application of the Criminal Procedure Act*

Article 220

- (1) Where the law has been violated, the state attorney of the Republic of Croatia may submit a protection of legality request against final court decisions and court proceedings preceding such final decisions.
- (2) The provisions of the Criminal Procedure Act that apply to the submission of and decision-making in respect of the protection of legality request shall apply accordingly to the protection of legality request in misdemeanour proceedings.
- (3) The state attorney need not submit a protection of legality request if they hold that the law indeed has been violated but that such violation had not affected the correctness of the decision and that the point at issue is not a question of law that is important for the uniformity of case law or the protection of human rights.

PART THREE  
SPECIAL PROCEEDINGS AND OTHER PROVISIONS

Twenty-eighth Title (XXVIII)  
URGENT PROCEEDINGS

*Conditions for the conduct of urgent proceedings*

Article 221

(1) An urgent proceeding shall be conducted:

1. for a misdemeanour punishable only by a fine of up to HRK 10,000.00, HRK 30,000.00 or HRK 10,000.00 in the case of, respectively, a natural person, legal entity, or responsible person in a legal entity;
2. against a juvenile perpetrator of a misdemeanour;
3. against an arrestee (Article 134, paragraph 4);
4. against a defendant who was imposed detention (Article 135, paragraph 1);
5. against a defendant who is not domiciled or resident in the Republic of Croatia;
6. following objection against a mandatory misdemeanour warrant, in case of denial of a misdemeanour.

(2) Upon the motion of the prosecutor, an urgent proceeding may also be conducted for a misdemeanour for which a penalty more severe than the one specified in paragraph 1, point 1, of this Article is prescribed. However, in such a case the misdemeanour court may not impose a penalty more severe than the one specified in paragraph 1, point 1, of this Article.

(3) A misdemeanour proceeding that was started as an urgent proceeding shall be conducted and finally ended as such irrespective of whether or not the conditions for its urgent conduct as referred to in paragraph 1 of this Article are still met.

(4) If a proceeding is conducted at the same time against both a legal entity and the responsible person in the legal entity, an urgent proceeding shall be conducted only if the conditions for the conduct of an urgent proceeding set out in paragraph 1, point 1, of this Article are met in respect of both the legal entity and the responsible person in the legal entity. If pursuant to paragraph 1, points 3 through 5, of this Article an urgent proceeding is to be conducted against the responsible person, such proceeding shall be conducted against both the legal entity and the responsible person.

(5) Where a proceeding is conducted at the same time against more than one defendant, an urgent proceeding shall be conducted if the conditions for the conduct of an urgent proceeding set out in paragraph 1, point 1, of this Article are met in respect of all the defendants or all the misdemeanours. If pursuant to paragraph 1, points 3 through 5, of this Article an urgent proceeding is to be conducted against one of the defendants, such proceeding shall be conducted against all the defendants.

(6) If a proceeding is conducted at the same time against both an adult and a juvenile perpetrator of a misdemeanour, an urgent proceeding shall always be conducted.

(7) If a proceeding is conducted against a defendant who committed one misdemeanour as a juvenile and another as an adult, an urgent proceeding shall be conducted.

*Conduct of urgent proceedings and application of the other provisions of this Act*

Article 222

(1) Unless the provisions of this Title provide otherwise, the provisions of this Act shall apply accordingly to the conduct of urgent misdemeanour proceedings.

(2) Particular acts in the conduct of an urgent proceeding shall be performed in accordance with this Act, with the exception of the provisions thereof relating to the trial, its scheduling

and holding, which shall not apply.

(3) The court shall summon, in accordance with the provisions of this Act, the defendant, witnesses, expert witnesses and others for examination and when on the basis of such evidence and other evidence contained in the case file it assesses that the facts are sufficiently clarified, it shall render a decision on the misdemeanour.

(4) In the course of a proceeding, the prosecutor and the other participants in the proceeding may participate in the proceeding in the manner provided for in this Act.

## Twenty-ninth Title (XXIX)

### PROCEEDINGS AGAINST JUVENILE PERPETRATORS OF MISDEMEANOURS

#### *General provisions*

#### Article 223

(1) Unless the provisions of this Title provide otherwise, to any proceeding against a juvenile perpetrator of a misdemeanour the provisions of this Act shall apply.

(2) Unless this Act provides otherwise, before a misdemeanour decision is made, a juvenile perpetrator of a misdemeanour shall be interrogated.

(3) When interrogating a juvenile or performing other acts to which a juvenile is present, it shall be proceeded with consideration so that, in view of the juvenile's mental development and personal traits, the conduct of a misdemeanour proceeding does not affect negatively the development of their personality.

(4) Unless this is not possible due to the need to act urgently or for other justifiable reasons, a juvenile shall be summoned and served with other documents through their parents or a statutory representative.

(5) The court shall notify the welfare centre when in a misdemeanour proceeding such facts and circumstances are established as point to the need to take measures for the purpose of protecting the rights and welfare of a juvenile.

(6) In a proceeding against a juvenile perpetrator of a misdemeanour, the representative of a welfare centre shall, in addition to the powers provided in this Act, have the right to acquaint themselves with the course of the proceeding and, in the course thereof, put forward such proposals and warn about such facts and evidence as are important for making the right decision.

(7) The authorised prosecutor shall inform the competent welfare centre of any proceeding instituted against a juvenile. If the prosecutor is the injured party, this shall be done by the court conducting the proceeding against the juvenile.

(8) No one may be relieved of the duty to testify as to circumstances necessary for assessing a juvenile's mental development, gaining knowledge of their personality and the conditions in which they live.

(9) Bodies participating in a proceeding against a juvenile and other authorities and institutions from which information, reports or opinions are requested shall proceed with the utmost urgency in order for the proceeding to end as soon as possible.

(10) Absent court approval, neither the course of a misdemeanour proceeding against a juvenile nor the decision made in such proceeding may be publicly announced. Only such part of the proceeding or decision which has been approved may be publicly announced. However, such announcement shall not disclose either the name of the juvenile or any other information that may reveal the identity of the juvenile in question.

(11) Proceedings against juveniles shall always be closed to the public. However, the court may allow the presence of persons working in the field of juvenile protection and education

and scientists.

(12) The provisions of paragraphs 5 through 7 shall not apply to a proceeding against a juvenile perpetrator of a misdemeanour who is not domiciled or resident in the Republic of Croatia.

#### *Court having jurisdiction*

##### Article 224

(1) The court with territorial jurisdiction over a proceeding against a juvenile perpetrator of a misdemeanour shall be the court in whose area of jurisdiction the juvenile is domiciled and, if the juvenile does not have a domicile or their domicile is unknown, the court in whose area of jurisdiction the juvenile has their place of residence. A proceeding may be conducted before the court within whose area of jurisdiction a juvenile, who has a domicile, has their place of residence or before a court within whose area of jurisdiction the misdemeanour was committed if it is obvious that this will facilitate the conduct of the proceeding.

(2) The provision of paragraph 1 of this Article shall not apply in the case referred to in Article 225, paragraphs 1 (unless a proceeding is severed) and 2 of this Act.

(3) The general provisions on jurisdiction in misdemeanour proceedings shall apply to proceedings against juvenile perpetrators of misdemeanours who are not domiciled or resident in the Republic of Croatia.

#### *Severed and joint proceedings*

##### Article 225

(1) Where a juvenile takes part in the commission of a misdemeanour together with an adult, the proceeding against the juvenile shall be severed and conducted independently, provided such severance will not prejudice a comprehensive clarification of the matter. The decision to sever or not sever a proceeding shall not be subject to appeal.

(2) Where the same person commits one misdemeanour as a juvenile and another as an adult, joint proceedings shall be conducted.

#### *Principle of expediency*

##### Article 226

(1) Where the court determines that starting and conducting a proceeding would be unjustified in view of a juvenile's personal circumstances and the misdemeanour committed, it shall decide, notwithstanding any evidence against the juvenile, not to start a proceeding or to terminate a pending proceeding.

(2) If an authorised prosecutor referred to in Article 109, paragraph 1, points 1 through 3, of this Act determines the existence of the circumstances referred to in paragraph 1 of this Article, they shall be authorised to decide against instituting a misdemeanour proceeding but shall be required to bring the act in question to the juvenile's attention and to inform of it their parents, adopter, foster parents and other persons entrusted with their care.

#### *Decisions in proceedings against juvenile perpetrators of misdemeanours*

##### Article 227

- (1) A juvenile perpetrator of a misdemeanour shall be sentenced by a judgement having the form provided for a judgement of conviction.
- (2) A decision shall terminate a proceeding against a juvenile perpetrator of a misdemeanour:
1. in cases where the court delivers a judgement under Articles 181 and 182 of this Act;
  2. where the court determines that it would not be expedient to either sentence or impose an educational measure on a juvenile perpetrator of a misdemeanour (Article 226, paragraph 1).
- (3) An educational measure shall be imposed upon a juvenile perpetrator of a misdemeanour by decision. The operative part of such decision shall only state which measure is to be applied, without finding the juvenile perpetrator guilty of the misdemeanour they are charged with. The statement of reasons shall include a description of the misdemeanour in question and the circumstances justifying the application of the educational measure that has been imposed.
- (4) A juvenile perpetrator of a misdemeanour may be duty bound to pay the costs of a misdemeanour proceeding and satisfy a civil claim only if they earn their own income or own property.
- (5) The decisions referred to in paragraphs 2 and 3 of this Article may be appealed within eight days.

## Thirtieth Title (XXX) MISDEMEANOUR WARRANT

### 1. GENERAL PROVISIONS

#### *General conditions for the issue of a misdemeanour warrant*

#### Article 228

- (1) As a special misdemeanour decision, a misdemeanour warrant may be issued:
1. before a misdemeanour proceeding is instituted;
  2. after a misdemeanour proceeding is instituted, without the holding of the trial or the conduct of the proceeding.
- (2) A misdemeanour warrant may be issued only against an adult perpetrator of a misdemeanour.
- (3) Unless this Act provides otherwise, a misdemeanour warrant may, under the conditions laid down in this Act, impose any of the prescribed misdemeanour sanctions applicable to adult perpetrators of misdemeanours, order the confiscation of a pecuniary advantage, reimbursement of a fixed amount of warrant issue costs and costs incurred in determining a misdemeanour by technical means or in performing the necessary analyses and undertaking expert examinations.
- (4) A misdemeanour warrant may impose neither a sentence of imprisonment nor a protective measure, with the exception of seizure of items and the prohibition to drive a motor vehicle.
- (5) Unless the provisions on the procedure for the issue of a misdemeanour warrant provide otherwise, other provisions of this Act shall apply accordingly to the procedure for the issue of a misdemeanour warrant.

#### *Persons or entities authorised to issue a misdemeanour warrant*

#### Article 229



- (1) Under the conditions laid down in this Act, a misdemeanour warrant may be issued by:
1. the court;
  2. the state administration body conducting the misdemeanour proceeding;
  3. either of the authorised prosecutors referred to in Article 109, paragraph 1, points 1 and 2, of this Act and state agencies established by the Croatian Parliament and the Government of the Republic of Croatia.
- (2) If a motion to indict is filed by the prosecutor-injured party, the court and the state administration body conducting the misdemeanour proceeding may issue a misdemeanour warrant only upon their motion.

## 2. MISDEMEANOUR WARRANT ISSUED BY A PARTICULAR AUTHORISED PERSON OR ENTITY

### *Court*

#### Article 230

The court may issue a misdemeanour warrant if each and every one of the following conditions are met:

1. that any of the authorised prosecutors referred to in Article 109, paragraph 1, points 1, 2, 3 and 4 (in the case referred to in Article 229, paragraph 2), of this Act filed a motion to indict;
2. that the court has not made a decision pursuant to Article 161, paragraphs 1 and 4, of this Act;
3. that the misdemeanour referred to in the motion to indict has been determined:
  - a) by first-hand observation or inspection performed by an authorised person of the prosecutor who made an official note or record thereof; or
  - b) on the basis of certified documents, including the record of the inspection carried out by the competent authority; or
  - c) by means of prescribed technical devices or by performing and undertaking appropriate laboratory analyses and expert examinations, as prescribed.

### *State administration body conducting a misdemeanour proceeding*

#### Article 231

A state administration body conducting a misdemeanour proceeding may issue a misdemeanour warrant if each and every one of the following conditions are met:

1. that any of the authorised prosecutors referred to in Article 109, paragraph 1, points 1, 2, 3 and 4 (in the case referred to in Article 229, paragraph 2), of this Act filed a motion to indict or received a misdemeanour report;
2. that it has not made a decision pursuant to Article 161, paragraphs 1 and 4, of this Act;
3. that the misdemeanour referred to in the motion to indict or report has been determined:
  - a) by first-hand observation or inspection performed by the authorised official person of prosecutor or the very state administration body that is conducting the misdemeanour proceeding, of which an official note or record has been made; or
  - b) on the basis of certified documents, including the record of the inspection carried out by the competent authority; or
  - c) by means of prescribed technical devices or by performing and undertaking appropriate laboratory analyses and expert examinations, as prescribed.

*State attorney*

Article 232

A state attorney may issue a misdemeanour warrant if the misdemeanour referred to in the misdemeanour report has been determined:

1. by first-hand observation or inspection performed by an authorised person within the body that filed the misdemeanour report, which person made an official note or record thereof; or
2. on the basis of certified documents, including the record of the inspection carried out by the competent authority; or
3. by means of prescribed technical devices or by performing and undertaking appropriate laboratory analyses and expert examinations, as prescribed.

*State administration bodies and state agencies as authorised prosecutors*

Article 233

(1) A state administration body as authorised prosecutor may issue a misdemeanour warrant where it determines a misdemeanour:

1. by first-hand observation or inspection performed by its authorised official persons in the course of exercising supervision within its areas of competence, who shall make an official note or record thereof; or
2. on the basis of certified documents, including the record of the inspection carried out by the competent authority; or
3. by means of prescribed technical devices or by performing and undertaking appropriate laboratory analyses and expert examinations, as prescribed.

(2) The provisions of this Act relating to state administration bodies as entities authorised to issue misdemeanour warrants shall also apply in all respects to the state agencies referred to in Article 229, paragraph 1, point 3, of this Act.

**3. CONTENTS OF AND PROCEDURE FOR THE ISSUE OF A MISDEMEANOUR WARRANT AND OBJECTION TO A MISDEMEANOUR WARRANT**

*Contents of a misdemeanour warrant and its service*

Article 234

(1) A written misdemeanour warrant shall be issued by applying accordingly, contentwise, the provisions of Articles 183 and 185 of this Act, unless the provisions of this Act provide otherwise.

(2) The statement of reasons for a misdemeanour warrant shall briefly state only such evidence and other conditions provided for in this Act as justify its issuance.

(3) The court shall serve a misdemeanour warrant on the defendant, their defence counsel, if they have one, and the prosecutor, while the state administration body conducting a misdemeanour proceeding shall serve such warrant on the defendant, their defence counsel, if they have one, and the prosecutor if the proceeding is conducted upon the motion of an authorised prosecutor.

(4) All other persons or entities authorised to issue a misdemeanour warrant shall serve it on the defendant.

## *Objection against a misdemeanour warrant*

### Article 235

(1) An objection to a misdemeanour warrant may be filed with the issuer of the misdemeanour warrant within eight days by the following persons:

1. the defendant;
2. defence counsel;
3. the persons referred to in Article 192, paragraph 2, of this Act.

(2) A defendant may waive their right to file an objection to a misdemeanour warrant. If a defendant files an objection in due time, such objection may be withdrawn until the start of the misdemeanour proceeding and before the misdemeanour warrant is abrogated.

(3) A waiver of the right to file an objection and a withdrawal of an already filed objection shall be irrevocable.

(4) A defendant with good cause for missing the objection filing deadline shall be granted *restitutio in integrum*. The provisions of this Act relating to the motion for *restitutio in integrum* in cases where the deadline for the filing of an appeal against a judgement has been missed shall apply to the decision-making on the motion for *restitutio in integrum*.

### *Contents of objection*

### Article 236

(1) An objection shall state the following:

1. indication of the misdemeanour warrant with respect to which it is filed and name of the body with which it is filed;
2. name of the person filing it and their signature;
3. grounds for filing the objection;
4. statement of reasons if the objection is filed only with respect to the imposed or applied misdemeanour sanctions.

(2) An objection filed by an authorised person in due time shall stay the enforcement of the misdemeanour warrant.

### *Grounds for filing an objection*

### Article 237

(1) An objection may be filed on the following grounds:

1. denial of a misdemeanour;
2. the imposed or applied misdemeanour sanction, confiscated pecuniary advantage or particular costs relating to the issue of a misdemeanour warrant.

(2) If an objection is filed on the grounds of paragraph 1, point 2, of this Article, the person filing the objection shall state the reasons for the objection and provide evidence proving the facts on which the objection is based.

### *Objection procedure*

### Article 238

- (1) An untimely or inadmissible objection shall be rejected by decision of the issuer of the misdemeanour warrant in question.
- (2) An objection shall be rejected as untimely where it is filed by an authorised person upon expiry of the time limit for the filing of the objection, specified in this Act.
- (3) An objection shall be rejected as inadmissible where it is filed by a person not authorised to file it under Article 235, paragraph 1, of this Act.
- (4) An objection from which it cannot be established to which misdemeanour warrant it refers or who its filer is shall be rejected by decision.
- (5) If an objection does not bear the signature of the person who filed it, such person shall be invited to sign the objection within eight days and if they fail to do so, the objection shall be rejected.
- (6) The decision rejecting an objection shall be subject to appeal by the person who filed the objection.
- (7) An objection that fails to state any other information referred to in Article 236 of this Act shall nevertheless be taken into consideration. If an objection fails to state the grounds referred to in Article 237, paragraph 1, of this Act, or if such grounds are unclear, the objection shall be deemed to have been filed for the purpose of denying a misdemeanour (Article 237, paragraph 1, point 1).
- (8) In deciding on an appeal against a decision rejecting an objection, the High Misdemeanour Court of the Republic of Croatia may:
  1. reject the appeal as untimely or inadmissible;
  2. dismiss the appeal as unfounded;
  3. accept the appeal, set aside the first-instance decision and remand the case to the issuer of the misdemeanour warrant;
  4. accept the appeal, amend the first-instance decision and accept the objection as timely, admissible, or complete, and where the objection referred to in Article 237, paragraph 1, point 1, of this Act has been filed against a misdemeanour warrant of a court or state administration body conducting misdemeanour proceedings, deliver the case file to them so that they can conduct the misdemeanour proceeding or, where the objection has been filed against a misdemeanour warrant issued by another authorised issuer, deliver the case file to such other authorised issuer so that they may forward it to the court or state administration body conducting misdemeanour proceedings for the purpose of their conducting the misdemeanour proceeding. In such case, the court or state administration body conducting misdemeanour proceedings shall accept the issued misdemeanour warrant as the prosecutor's motion to indict. The provision of Article 117, paragraph 4, of this Act shall not apply if the misdemeanour warrant provides information on the misdemeanour and its perpetrator. Where, in such case, the objection in question is the objection referred to in Article 237, paragraph 1, point 2, of this Act, the High Misdemeanour Court of the Republic of Croatia shall proceed as provided for in paragraph 11 of this Article.
- (9) If an objection referred to in Article 237, paragraph 1, point 1, of this Act is filed against a misdemeanour warrant of a court or a state administration body conducting misdemeanour proceedings that failed to decide in accordance with paragraphs 1, 4 or 5 of this Article, as well as in the case referred to in paragraph 7 of this Article, a misdemeanour proceeding shall be conducted. After the start of the trial, i.e., before the defendant's examination, the issued misdemeanour warrant shall be abrogated by decision. Such decision abrogating a misdemeanour warrant shall not be subject to appeal.
- (10) If an objection referred to in Article 237, paragraph 1, point 1, of this Act is filed against a misdemeanour warrant of an authorised prosecutor that failed to decide in accordance with paragraphs 1, 4 or 5 of this Article, the misdemeanour warrant together with the objection shall be delivered to the competent court which shall proceed as provided in paragraph 9 of

this Article.

(11) Where an objection referred to in Article 237, paragraph 1, point 2, of this Act is filed and the issuer of the misdemeanour warrant fails to decide in accordance with paragraphs 1, 4 or 5 of this Article, the misdemeanour warrant as well as the objection shall be delivered to the High Misdemeanour Court of the Republic of Croatia which shall accept the objection by appealing against the misdemeanour warrant and decide by applying accordingly the provisions of this Act relating to the appellate procedure.

(12) In a misdemeanour proceeding conducted in accordance with paragraph 8, point 4, and paragraphs 9 and 10 of this Article, the court shall not be bound by the prohibition referred to in Article 202, paragraph 4, of this Act.

### Thirty-first Title (XXXI)

## MANDATORY MISDEMEANOUR WARRANT AND COLLECTION OF ON-THE-SPOT FINES

### 1. MANDATORY MISDEMEANOUR WARRANT

#### *General provisions on the issue of a mandatory misdemeanour warrant*

#### Article 239

(1) Before instituting a misdemeanour proceeding against a perpetrator of a misdemeanour, including a juvenile, an authorised prosecutor referred to in Article 109, paragraph 1, points 1 and 2, of this Act shall be required to issue a misdemeanour warrant (mandatory misdemeanour warrant) for:

1. a misdemeanour prescribed by a decision of a unit of local or regional self-government;
2. a misdemeanour prescribed by statute punishable by only a fine of up to HRK 2,000.00, HRK 5,000.00, HRK 10,000.00 and HRK 5,000.00 for, respectively, a natural person, natural person craftsman or another sole trader-perpetrator of a misdemeanour, legal entity and the responsible person in a legal entity. Where both a legal entity and its responsible person are liable for a misdemeanour, and the conditions for the issue of a mandatory misdemeanour warrant are met only in respect of the legal entity, a mandatory misdemeanour warrant shall be issued in respect of both the legal entity and its responsible person. Where the conditions for the issue of a mandatory misdemeanour warrant are met only in respect of the responsible person, no mandatory misdemeanour warrant shall be issued.

(2) An authorised prosecutor referred to in Article 109, paragraphs 1 and 2, of this Act may issue a misdemeanour warrant pursuant to the provisions on the mandatory misdemeanour warrant also in cases where the fine prescribed by law for a particular misdemeanour exceeds the amount referred to in paragraph 1, point 2, of this Article if, under the provisions of this Act, a particular misdemeanour is punishable by admonition or a fine of up to the amount referred to in paragraph 1, point 2, of this Article. In such case the provision of paragraph 4 of this Article shall apply.

(3) Where, in the case of misdemeanours in concurrence, the conditions for the issue of a mandatory misdemeanour warrant are not met in respect of one or more misdemeanours, or if a misdemeanour warrant for a number of misdemeanours is to include a number of defendants and for one or some of the misdemeanours the conditions referred to in paragraphs 1 and 2 of this Article are not met, the provisions on the mandatory issue of a misdemeanour warrant shall not apply. In such a case, an authorised prosecutor referred to in paragraph 1 of this Article may issue a misdemeanour warrant under the regulations on the mandatory issue of a misdemeanour warrant only for such misdemeanours and their perpetrators in respect of

which the conditions referred to in paragraphs 1 and 2 of this Article are met.

(4) In addition to a penalty, the misdemeanour warrant referred to in paragraphs 1 and 2 of this Article may impose reimbursement of up to HRK 100.00 of fixed costs for the issue of the misdemeanour warrant as well as of the costs of determining a misdemeanour by means of a technical device or by performing or undertaking the necessary analyses and expert examinations.

(5) The provisions of this Act relating to the issue of the misdemeanour warrant shall apply accordingly to the procedure for the issue of the mandatory misdemeanour warrant referred to in paragraphs 1 and 2 of this Article, unless the provisions of this Act relating to the issue of the mandatory misdemeanour warrant provide otherwise.

(6) Where, instead of the misdemeanour warrant referred to in paragraph 1 of this Article, an authorised prosecutor files a motion to indict, the court shall reject such motion to indict.

(7) The provisions of Article 234 of this Act shall apply to the misdemeanour warrant referred to in paragraphs 1 and 2 of this Article.

*Mandatory issue of a misdemeanour warrant where the prosecutor is a legal entity with public powers or the injured party*

#### Article 240

(1) Where a misdemeanour is prescribed by a decision of a unit of local or regional self-government and the authorised prosecutor is a person with public powers or the injured party, the authorised prosecutor shall file with the competent authority of local or regional self-government a motion for the issue of a mandatory misdemeanour warrant.

(2) The motion referred to in paragraph 1 of this Article shall state the essential information on the person filing the motion, the defendant, the misdemeanour itself, and provide evidence proving the commission of the misdemeanour in question.

(3) The provisions of Article 239, paragraphs 2 through 6, of this Act shall apply accordingly to the misdemeanour warrant referred to in paragraph 1 of this Article.

(4) Where a misdemeanour is prescribed by statute and the authorised prosecutor is a legal entity with public powers or the injured party, the provisions on the mandatory issue of a misdemeanour warrant shall not apply.

*Objection to a mandatory misdemeanour warrant*

#### Article 241

(1) An objection to a mandatory misdemeanour warrant may be filed within eight days by:

1. the defendant;
2. defence counsel;
3. the persons referred to in Article 192, paragraph 2, of this Act.

(2) The objection shall be filed with the body that issued the mandatory misdemeanour warrant and shall state the information set out in Article 236 of this Act.

(3) A timely objection filed by an authorised person shall stay the enforcement of the misdemeanour warrant.

*Grounds for objection*

#### Article 242



(1) An objection may be filed on the following grounds:

1. denial of a misdemeanour;
2. the imposed or applied misdemeanour sanction or particular costs relating to the issue of a misdemeanour warrant.

(2) An objection denying a misdemeanour shall state the reasons for such denial (the person filing the objection did not commit a misdemeanour, the act in question does not constitute a misdemeanour, such circumstances exist as exclude guilt).

(3) If an objection is filed on the grounds of paragraph 1, point 2, of this Article, the person filing the objection shall state the reasons for the objection and provide evidence proving the facts on which the objection is based.

#### *Preliminary procedure upon objection*

#### Article 243

(1) When the body that issued a misdemeanour warrant receives an objection to the misdemeanour warrant, it shall immediately forward such objection together with the case file to the misdemeanour court having jurisdiction over the place where the misdemeanour was committed.

(2) The court shall make a decision rejecting an untimely or inadmissible objection or an objection from which it cannot be established who its filer is or to which misdemeanour warrant it refers.

(3) If an objection does not bear the signature of the person who filed it, the court shall invite such person to sign it within eight days and if they fail to do so, the objection shall be rejected.

(4) The decision rejecting an objection shall not be subject to appeal.

(5) An objection that fails to state any other information referred to in Article 236 of this Act shall nevertheless be taken into consideration. If an objection fails to state the grounds referred to in Article 237, paragraph 1, of this Act, or if such grounds are unclear, the objection shall be deemed to have been filed for the purpose of denying a misdemeanour (Article 237, paragraph 1, point 1).

(6) In the procedure for the issue of a mandatory misdemeanour warrant it shall not be possible to file a motion for *restitutio in integrum*.

#### *Deciding on an objection*

#### Article 244

(1) If the court does not reject an objection denying a misdemeanour, or does not deliver a judgement due to the existence of any of the reasons referred to in Article 196, points 1 through 4, of this Act, it shall conduct urgent proceedings (Article 221) and deliver a judgement which shall not be subject to appeal.

(2) If an objection is filed on account of the penalty imposed or the costs of the proceeding, the court shall deliver a judgement without holding a trial or conducting urgent proceedings dismissing the objection and confirming a misdemeanour warrant if it finds the objection to be unfounded, or amending a misdemeanour warrant with respect to the decision on the penalty or the costs of the proceeding if it finds that the objection is founded in part or in whole.

(3) The judgement referred to in paragraph 2 of this Article shall not be subject to appeal.

## 2. COLLECTION OF ON-THE-SPOT FINES

### *Persons authorised to collect on-the-spot fines and conditions of collection of on-the-spot fines*

#### Article 245

(1) Unless the law provides otherwise, a fine may be collected on the spot in the case of a misdemeanour punishable by a fine of up to HRK 1,000.00 and HRK 10,000.00 for, respectively, a natural person or the responsible persons in a legal entity, and a legal entity or an entity equated therewith, if an official person of the authorised prosecutor, excluding the injured party, determines a misdemeanour:

- a) by performing an inspection within the area of its competence;
- b) by first-hand observation;
- c) by means of a technical device;
- d) by examining certified documents.

(2) Where a misdemeanour is committed by both a legal entity and the responsible person therein, it is sufficient, in order to proceed under paragraph 1 of this Article, that the condition referred to in paragraph 1 of this Article concerning the prescribed fine be met with respect to either the legal entity or the responsible person.

(3) A fine imposed orally in accordance with the conditions referred to in paragraph 1 of this Article shall be collected from a perpetrator of a misdemeanour who shall be issued a receipt. The costs of determining a misdemeanour by means of a technical device may likewise be paid immediately.

(4) If, in accordance with paragraphs 1 and 2 of this Article, a perpetrator of a misdemeanour pays the imposed fine and the cost of determining the misdemeanour, no misdemeanour proceeding shall be conducted, the fine imposed shall not be recorded on the misdemeanour register, and the perpetrator of the misdemeanour shall not be deemed a person convicted of a misdemeanour.

(5) If a police officer, acting in accordance with paragraph 1 of this Article, imposes a fine upon and determines the costs of the proceeding to be paid by a perpetrator of a misdemeanour who is neither domiciled nor permanently resident in the Republic of Croatia, and if such person refuses to pay the said fine and costs, the police officer may bring the perpetrator before a misdemeanour judge even as they file a motion to indict. The misdemeanour judge shall immediately examine the perpetrator of the misdemeanour brought before them. If the conditions for detaining the defendant pursuant to the provision of Article 135, paragraph 3, of this Act are not met, the judge may proceed as provided in Article 136 of this Act.

(6) Where the police, in performing an inspection task, establish that a misdemeanour punishable only by a fine of up to HRK 1,000.00, which by its nature is especially minor, has been committed by a perpetrator with no record of similar misdemeanours, they may, instead of proceeding in accordance with paragraphs 1 and 2 of this Article, issue a written or oral warning to the perpetrator of such misdemeanour.

(7) Any acts by the police under paragraph 6 of this Article shall be regulated in more detail by ordinance of the minister responsible for internal affairs.

#### Thirty-second Title (XXXII)

#### OTHER SPECIAL PROCEEDINGS AND ACTS

##### *Proceeding revoking a suspended sentence*

## Article 246

(1) Where under a suspended sentence the penalty is to be enforced if the convicted person fails to repay a pecuniary advantage, pay damages, or fulfil any other obligation, and the convicted person fails to do so within the specified time period, the court of first instance shall, upon motion of the authorised prosecutor or injured party, conduct the suspended sentence revocation proceeding.

(2) As part of the suspended sentence revocation proceeding referred to in paragraph 1 of this Article, the court shall examine the convicted person, if they are available, and undertake any inquiries necessary for establishing facts and collecting evidence important for deciding on the revocation of a suspended sentence.

(3) Where the court finds that a convicted person has failed to fulfil the obligation imposed upon them by the judgement, it shall deliver a judgement revoking the suspended sentence and imposing enforcement of the penalty imposed, or set a new time limit for fulfilling such obligation, or replace such obligation with another, or release the convicted person from such obligation. If the court finds there are no grounds for making any such decision, it shall decide to terminate the suspended sentence revocation proceeding.

## *Pursuit*

## Article 247

Where, for the duration of a proceeding and the proceeding for the enforcement of a misdemeanour decision, a defendant's domicile or residence is unknown as well as in any other case provided by this Act, the court shall direct the police to find the defendant and inform it of their address. The court may, even as it requests the pursuit of the defendant, direct the police to enforce the warrant for the defendant's bringing to court.

## *Wanted notice*

## Article 248

(1) The court may order that a wanted notice be issued for a defendant in flight against whom a misdemeanour proceeding for a misdemeanour punishable by a fine of up to two thousand kuna or a more severe penalty has been instituted or against whom a misdemeanour sanction imposed for such misdemeanour needs to be enforced.

(2) The court shall deliver the order for the issue of a wanted notice to the internal affairs authority having competence over the seat of the court conducting the misdemeanour proceeding in question, which shall issue a wanted notice.

(3) The court that ordered the issue of a wanted notice shall withdraw such order or the notice already issued if:

1. the person searched for has been found;
2. the statute of limitations for misdemeanour prosecution has expired;
3. the statute of limitations for enforcing the imposed misdemeanour sanction has expired;
4. there is some other reason for the wanted notice no longer being necessary.

## *Procedure for imposing the legal consequence of negative misdemeanour points*

## Article 249

(1) If a convicted person collects such number of negative misdemeanour points as by law gives rise to a particular legal consequence, the authority responsible for the register of negative misdemeanour points shall determine by decision that the convicted person has collected such number of negative misdemeanour points and impose by decision the legal consequence provided by a special statute.

(2) The convicted person has the right to appeal against the decision referred to in paragraph 1 of this Article within eight days. The appeal shall stay the enforcement of the decision. The High Misdemeanour Court of the Republic of Croatia shall decide on the appeal.

#### *Provisions on other special procedures*

##### Article 250

(1) The court shall confiscate by operation of law any pecuniary advantage obtained as a result of a misdemeanour. Unless this Act provides otherwise, the provisions of the Criminal Procedure Act shall apply accordingly to procedures for the confiscation of a pecuniary advantage, indemnification, and exercise of other rights by persons unjustifiably convicted or arrested without a legal basis.

(2) Rehabilitation of convicted persons under the conditions of this Act shall take effect by operation of law and no special decision shall be made thereon. All state bodies shall pay attention by operation of law to when rehabilitation takes effect.

#### Thirty-third Title (XXXIII)

#### TRANSITIONAL AND FINAL PROVISIONS

##### *Substantive law and completion of pending proceedings*

##### Article 251

(1) Substantive provisions of this Act shall apply to misdemeanours committed after the entry into force of this Act, except where the rule on the application of the law that is more lenient to the perpetrator applies and unless the provisions of this Title provide otherwise.

(2) A misdemeanour proceeding instituted before the entry into force of this Act shall resume and finally end pursuant to the procedural provisions of the Misdemeanour Act (Official Gazette 88/02, 122/02, 187/03, 105/04 and 127/04), unless the provisions of this Title provide otherwise.

(3) The provisions of the Misdemeanour Act (Official Gazette 88/02, 122/02, 187/03, 105/04 and 127/04) shall apply to extraordinary legal remedies in misdemeanour proceedings finally completed under the said Act.

##### *Enforcement of decisions*

##### Article 252

Decisions made under the Misdemeanour Act (Official Gazette 88/02, 122/02, 187/03, 105/04 and 127/04) shall be enforced in accordance with the provisions of the said Act.

##### *Negative misdemeanour points*

##### Article 253

(1) Upon entry into force of this Act, any negative points prescribed by a special statute shall be deemed negative misdemeanour points and the legal consequence of conviction under this Act.

(2) Negative points collected by the defendant under the Misdemeanour Act (Official Gazette 88/02, 122/02, 187/03, 105/04 and 127/04) shall be taken into account in applying the legal consequence of conviction in accordance with this Act.

#### *Fine*

#### Article 254

(1) Upon entry into force of this Act, a fine for a misdemeanour laid down by statute or another regulation shall be deemed a fine laid down for this misdemeanour in the same amount.

(2) A fine imposed for a misdemeanour laid down by statute or another regulation before the entry into force of this Act shall, upon entry into force of this Act, be deemed a fine in the same amount.

#### *Protective measures*

#### Article 255

Protective measures finally imposed under the provisions of the Misdemeanour Act (Official Gazette 88/02, 122/02, 187/03, 105/04 and 127/04) shall apply in accordance with the provisions of the said Act, except in the case referred to in Article 253, paragraph 2, of this Act.

#### *Implementing legislation*

#### Article 256

The implementing legislation provided in this Act shall be adopted or aligned with this Act by the responsible ministers no later than one month after the entry into force of this Act.

#### *Effects of Act's entry into force*

#### Article 257

(1) If, on the date of entry into force of this Act, another misdemeanour regulation lays down such substantive or procedural provisions as are contrary to this Act, the provisions of this Act shall apply.

(2) Upon entry into force of this Act, the Misdemeanour Act (Official Gazette 88/02, 122/02, 187/03, 105/04 and 127/04) shall cease to have effect.

#### *Act's entry into force*

#### Article 258

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2008.

Class: 740-04/07-01/01  
Zagreb, 3 October 2007

THE CROATIAN PARLIAMENT

President of  
the Croatian Parliament  
**Vladimir Šeks**, m. p.

PROVISIONAL TRANSLATION